

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
NORTHERN DIVISION

UNITED STATES OF AMERICA

v.

GERMAN de JESUS VENTURA and  
KEVIN GARCIA FUERTES,  
Defendants

)  
)  
)  
) Criminal Docket No. WDQ-10-0770  
) Volume VI

Baltimore, Maryland  
April 16, 2013  
9:27 AM to 5:54 PM

**THE ABOVE-ENTITLED MATTER CONTINUED ON FOR  
JURY TRIAL  
BEFORE THE HONORABLE WILLIAM D. QUARLES, JR.**

A P P E A R A N C E S

On behalf of the Government:

Michael Cunningham, Assistant U.S. Attorney  
Rachel Yasser, Assistant U.S. Attorney

On behalf of Defendant German de Jesus Ventura:

Gerald Ruter, Esquire

On behalf of Defendant Kevin Garcia Fuertes:

Michael D. Montemarano, Esquire

A P P E A R A N C E S (CONT.)

Also present:

HSI Special Agent Edward Kelly  
Victoria Kirchgessner, Spanish Interpreter  
Marta Goldstein, Spanish Interpreter

Reported by:

Martin J. Giordano, RMR, CRR, FOCR  
U.S. Courthouse, Room 5515  
101 West Lombard Street  
Baltimore, Maryland 21201  
410-962-4504

**PROCEEDINGS OF APRIL 16, 2013**

**THE CLERK:** All rise. The United States District Court for the District of Maryland is now in session, The Honorable William D. Quarles, Jr. presiding.

**THE COURT:** Good morning.

Ready for the jury, folks?

**MR. RUTER:** Your Honor, not quite yet. There is just one matter if I could, Your Honor.

**THE COURT:** Yes.

**MR. RUTER:** Mr. Ventura has requested that I ask the Court if His Honor had made any ruling on the paper that he had filed last Thursday.

**THE COURT:** Yes.

**MR. RUTER:** And he wants me to advise the Court that he believes the trial should be stopped until a time at which the Court -- you, Your Honor -- can make decisions concerning requests that he made last week.

**THE COURT:** The request was denied. Trial will continue until verdict.

Ready for the jury, counsel?

**MR. RUTER:** Yes, Your Honor.

**MS. YASSER:** Your Honor, can we bring the witness in?

**THE COURT:** Yes, please.

(Jury enters.)

1           **THE COURT:** Please be seated.

2           **THE CLERK:** I'd like to remind you, you are still  
3 under oath --

4           **THE WITNESS:** Okay.

5           **THE CLERK:** -- and will you state your name again  
6 for the record, please.

7           **THE WITNESS:** Esmirna Dueñas.

8           **THE CLERK:** Thank you.

9           **MR. RUTER:** Your Honor, thank you.  
10 May I approach the witness, Your Honor?

11           **THE COURT:** Yes, you may.

12           **ESMIRNA REBECA DUEÑAS FRANCO**

13           **WAS PREVIOUSLY DULY SWORN TO TELL THE TRUTH**

14           **CROSS-EXAMINATION (CONT.)**

15           **BY MR. RUTER:**

16           Q. Ms. Franco, allow me to show you what's been introduced  
17 as Defense Exhibit Number 3, and I'm going to ask you whether  
18 or not you can identify this document?

19           A. I don't remember this document.

20           Q. Ms. Franco, can I ask you whether or not you can identify  
21 a signature, which appears to be your signature, at the bottom  
22 of the document?

23           A. Yes.

24           Q. Okay. Did you sign the document?

25           A. Correct.

1 Q. And did you date the document?

2 A. Yes.

3 Q. And what date did you place on the document?

4 A. March 22nd.

5 Q. Of what year?

6 A. I don't know.

7 Q. You're the one who signed the document, though?

8 A. Yes.

9 Q. Okay. I'm going to ask the interpreter, Ms. Franco,  
10 because you do not read English -- am I right?

11 A. No.

12 MR. RUTER: So I'm going to ask the interpreter to  
13 read aloud, since it's in evidence, the paragraph marked  
14 Number 2 to Ms. Franco, and then, after you read that, I will  
15 ask you a question.

16 INTERPRETER GOLDSTEIN: The interpreter would  
17 clarify. You want me to read that to her?

18 MR. RUTER: Yes.

19 INTERPRETER GOLDSTEIN: Translate it?

20 MR. RUTER: Yes. She doesn't read English.

21 (Interpreter Goldstein translating the document to  
22 the witness.)

23 BY MR. RUTER:

24 Q. And, Ms. Franco, do you understand what the interpreter  
25 just read to you?

1 A. Yes.

2 Q. Did you put an "X" mark next to one of the items that you  
3 were just read.

4 A. No. I didn't put that "X" down.

5 Q. You did not?

6 A. No.

7 **MR. RUTER:** If I could show the jury, Your Honor,  
8 please?

9 Q. Ms. Franco, this was the document you were just shown; is  
10 that correct?

11 A. Yes.

12 Q. And you recall that you signed your name where it says  
13 "Rebeca Dueñas;" is that correct?

14 A. Correct.

15 Q. And you also see the date which you indicated was your  
16 writing; is that also correct?

17 A. Yes.

18 Q. Okay. And you see that there are three check marks on  
19 the document; is that right?

20 A. Yes.

21 Q. The "X" that I'm pointing to, which says "Married Filing  
22 Jointly," do you see that?

23 A. Yes, I'm looking at it.

24 Q. Okay. The question is: When you signed this document,  
25 were you or were you not married?

1 A. I'm not married.

2 Q. Okay. But you did not put this check mark down?

3 A. I haven't put any Xs down there.

4 Q. Okay. Do you know who did, ma'am?

5 A. No.

6 Q. Okay.

7 MR. RUTER: If I could approach the witness again,  
8 Your Honor?

9 THE COURT: Yes.

10 BY MR. RUTER:

11 Q. Ms. Franco, this is in English. I know you're not going  
12 to understand it. I'm going to ask the translator to show  
13 this to you and to see whether or not you've ever seen this  
14 particular document, which is Defense Number 4. It's already  
15 been moved into evidence, and it purports to be a statement of  
16 the wages you earned while working for the recycling company.

17 Do you recall yesterday I'd asked you if you  
18 recalled exactly when it was that you worked for the recycling  
19 company?

20 A. Yes.

21 Q. And would it be fair to say that, yesterday, it was not  
22 clear to you exactly when it was that you worked for that  
23 company?

24 MS. YASSER: Your Honor, may I -- I'm sorry.

25 THE WITNESS: I don't remember.

1                   **MS. YASSER:** May I see the Defense exhibit?

2                   **THE COURT:** Yes. Please show it to Government  
3 counsel.

4                   **MR. RUTER:** I did show it to Mr. Cunningham earlier,  
5 Your Honor.

6                   **THE COURT:** It's Ms. Yasser's witness.

7                   **MS. YASSER:** Your Honor, this document is in  
8 English, and I think the witness has testified that she can't  
9 read or write in English.

10                  **MR. RUTER:** I think that's right.

11                  **THE COURT:** Okay. Make your presentation.

12                  **MR. RUTER:** Thank you.

13                  **THE COURT:** Overruled.

14                  **BY MR. RUTER:**

15 Q. Ms. Franco, I'm going to ask the interpreter to read to  
16 you these -- there is three dates on here, and I want the  
17 interpreter to read these three dates to you. It's here,  
18 here, and here.

19                  **MR. RUTER:** Do you see them?

20                  **INTERPRETER GOLDSTEIN:** Is that --

21                  **MR. RUTER:** Right here, right here, and right here.

22                         (Interpreter Goldstein translating a portion of the  
23 document to the witness.)

24                  **BY MR. RUTER:**

25 Q. Do you see -- you had the dates read to you, ma'am, by



1 the interpreter?

2 A. Yes, I do remember this. It was a time that I wanted to  
3 get my daughter back, so I went to the recycle company. At  
4 that date, I was still with Chino, but, when he found out that  
5 I had gone back to work, he took me out of work.

6 Q. Okay. Ms. Franco, looking at Defense Exhibit Number 4,  
7 do we see that you were working for the recycling company  
8 during the week of October 24th, 2008? Is that accurate?

9 A. Yes.

10 Q. And you worked an entire 40-hour week; did you not?

11 A. Yes.

12 Q. And you also worked an additional four hours of overtime;  
13 did you not?

14 A. Yes.

15 Q. And what hours do you recall were you working? Were you  
16 working what you'd call the dayshift, or were you working what  
17 we'd call the nightshift?

18 A. During the day.

19 Q. Okay. And do you recall the starting time and the ending  
20 time while you were working?

21 A. I don't remember.

22 Q. Can you recall where you were living in late October of  
23 2008?

24 A. No.

25 Q. Can you recall how you got to work?

1 A. A female co-worker would give me a ride.

2 Q. And, when you say "a female co-worker," was that a  
3 co-worker from the recycling plant, or a co-worker who was  
4 involved in prostitution?

5 A. She worked at the plant.

6 Q. And do you recall her name?

7 A. No.

8 Q. And she would come and pick you up?

9 A. Yes.

10 Q. And do we understand she'd pick you up sometime in the  
11 morning?

12 A. Yes.

13 Q. And she would drop you back off at the end of your shift?

14 A. Yes.

15 Q. With whom were you living in late October of 2008?

16 A. I don't remember.

17 Q. Do we see by this document that you worked the week of  
18 October 29th of 2008?

19 A. Yes.

20 Q. And we also understand that, on that same week, you  
21 worked over seven and one half hours of overtime?

22 A. Yes.

23 Q. And did your friend work at the same plant with you, pick  
24 you up in the morning, then drop you off in the afternoon?

25 A. Yes.

1 Q. And did you have a child at that time?

2 A. No.

3 Q. Okay. And then we also see, do we not, that you worked  
4 the week of November 4th of 2008?

5 A. Yes.

6 Q. And you worked the entire 40-hour week; is that also  
7 correct, ma'am?

8 A. Yes.

9 Q. And same question: Your friend picked you up in the  
10 morning, and then she dropped you off at the end of your  
11 shift; is that right?

12 A. Yes.

13 Q. And, once again, do you happen to recall where you were  
14 living in November of 2008?

15 A. No.

16 Q. Now, Ms. Franco, we understand, I believe, that you  
17 received a visit from the police on September the 26th of  
18 2008; is that right?

19 A. Yes.

20 Q. And do you recall where the address was that you were  
21 located at when the police came?

22 A. No.

23 Q. Was it [REDACTED]?

24 A. Yes.

25 Q. Okay. And do you recall: Were you living at that

1 address when the police had come on September 26th of 2008?

2 A. Yes.

3 Q. Okay. So you can recall where you were living in  
4 September of 2008, but are you also testifying that you cannot  
5 remember where you were living in October of 2008?

6 A. When I lived at [REDACTED], I wasn't working on that  
7 date.

8 Q. On what date? The date the police came?

9 A. September.

10 Q. Okay. You were not working as a prostitute; is that what  
11 you're saying?

12 A. No. I'm not referring to that. I'm referring to work.

13 Q. Yes. Were you working as a prostitute on September 26th  
14 of 2008?

15 A. Yes.

16 Q. Okay. And with whom were you working on September 26th  
17 of 2008?

18 A. With another girl.

19 Q. Okay. And what was her name?

20 A. I don't know. I don't remember.

21 Q. And you were working in the prostitution business with  
22 this other girl on September 26th of 2008; isn't that right?

23 A. Yes.

24 Q. Okay. Now, my question is: How is it that you went from  
25 working prostitution on September 26th of 2008, but you went

1 back to work at the recycling plant in October and early  
2 November of 2008?

3 A. Because I already told you: I wanted to get my daughter  
4 back, and I wanted a decent job.

5 Q. Okay. And what you're referring to is, on September 26th  
6 of 2008, when the police visited [REDACTED], when they  
7 arrived, evidently your child was there -- you had a child who  
8 was there unattended; is that right?

9 A. Yes.

10 Q. So that would mean, Ms. Franco, that, when I asked you  
11 about five minutes ago whether or not you had a child in  
12 October of 2008, and you answered, "No," that means you were  
13 wrong; is that correct?

14 A. No. I am not mistaken.

15 Q. All right. Am I mistaken in saying that, about five  
16 minutes ago, you testified that, in October of 2008, you did  
17 not have a child?

18 A. The date the police came to the house, that's when they  
19 took my little girl.

20 Q. Okay. So you had a little girl in September of 2008,  
21 correct?

22 A. Yes.

23 Q. And that means you also had a little girl in October of  
24 2008; is that also not correct?

25 **INTERPRETER GOLDSTEIN:** Interpreter would like a

1 correction, or not a correction, or a clarification. When you  
2 say, "is that also not correct," that is something I cannot do  
3 in Spanish.

4 **MR. RUTER:** I'll rephrase the question.

5 **BY MR. RUTER:**

6 Q. In October of 2008, did you have a little girl?

7 A. Yes.

8 Q. Okay. When you were working with this other girl in  
9 prostitution on September 26th of 2008, were you also working  
10 with Chino on the same date?

11 A. Yes.

12 Q. And would it be fair to say that you were working with  
13 him on Monday, Tuesday, Wednesday, Thursday, Friday, and  
14 Saturday?

15 A. Monday to Sunday.

16 Q. Okay. And that you had done that for some period of time  
17 prior to September 26th of 2008 with Chino?

18 A. Yes.

19 Q. And then you decided to go back to work for the recycling  
20 plant; is that not right?

21 A. Yes.

22 Q. And Chino knew that, didn't he?

23 A. Yes.

24 Q. And you worked there for an entire three weeks, correct?

25 A. Yes.

1 Q. And this is after you'd been visited by the police on  
2 September 26th of 2008?

3 A. Yes.

4 Q. You were gone from Chino all day long, Monday through  
5 Friday, for at least a period of three weeks following  
6 September 26th of 2008?

7 A. Yes.

8 Q. While you were working at the recycling plant from  
9 October into November of 2008, did you see Chino here?

10 A. Yes.

11 Q. How many times?

12 A. I don't know how many times, but quite often.

13 Q. Yes, but, Ms. Franco, during that timeframe, you were  
14 having sex with him regularly; were you not?

15 A. Yes.

16 Q. And he knew where you were every day, didn't he?

17 A. Yes.

18 Q. Ms. Franco, yesterday you told us about an unfortunate  
19 incident when you had been raped; is that correct?

20 A. Yes.

21 Q. And can you tell us whether or not the individual who  
22 raped you forced -- physically forced you to submit to his  
23 physical advances?

24 A. Yes.

25 Q. And can you tell us where the rape actually took place?

1 As an example, was it in a building? Was it in a car? Was it  
2 outside?

3 A. When we were going to Houston on a mountain.

4 Q. By car?

5 A. No. Walking.

6 Q. While walking. And did this physical attack occur to you  
7 while you were outside?

8 **MS. YASSER:** Your Honor, may we approach on this  
9 subject?

10 **THE COURT:** Come up.

11 (Whereupon, the following discussion occurred at the  
12 bench.)

13 **MS. YASSER:** Your Honor, I should have objected  
14 sooner. I thought it was going to be one or two questions,  
15 but it's clear to me now that Mr. Ruter is trying to elicit  
16 explicit details about a prior physical assault on this victim  
17 prior to a time that she even knew these two defendants, and  
18 I'm not -- the relevance is questionable with respect to this  
19 particular case at issue.

20 **MR. RUTER:** Your Honor, I'm going to attempt to  
21 prove that the injuries that were pointed out by Ms. Yasser  
22 may not have occurred at all at the hands of Mr. Ventura.  
23 They very well could have happened at the hands of this rape  
24 that she's told us already was forceful, and it was outside.

25 **THE COURT:** The rules do permit more extensive



1 questioning in that area proving an alternative source for  
2 injuries --

3 **MS. YASSER:** Well --

4 **THE COURT:** -- or the presence of other physical  
5 evidence.

6 **MS. YASSER:** My understanding is, if that's the  
7 attempt that they're trying to make, under Rule, I believe,  
8 412, they're required to provide written notice of an intent  
9 on prior sexual contact in order to prove prior or other  
10 source of injury, and they've not done so. There is supposed  
11 to be a hearing outside the jury in front of the Court.

12 **MR. RUTER:** It doesn't apply to the Government, Your  
13 Honor; it applies to the Defense. It was the Government who  
14 brought the injuries to the forefront, and I think they have  
15 an expert, allegedly, who is going to attempt to confirm that  
16 what Ms. Franco says about those injuries is accurate.

17 **THE COURT:** Well, I will keep the witness available.  
18 We'll hear the Government's evidence, and then I may permit  
19 you, depending upon what the Government's evidence is, to  
20 recall her to go into a specific fact.

21 **MR. RUTER:** Then I'll move on, Your Honor. Thank  
22 you.

23 **THE COURT:** Yes.

24 (Whereupon, the bench conference was concluded.)

25 **BY MR. RUTER:**

1 Q. Ms. Franco, we understand that the first person that you  
2 worked with in the prostitution business was a man named Alex;  
3 is that right?

4 A. Yes.

5 Q. And do we also understand that the reason that you gave  
6 the jury for working in prostitution with Alex was because he  
7 had threatened your child? Is that accurate?

8 A. Yes.

9 Q. What I was unclear about -- and I'd ask you to attempt to  
10 clarify -- was: How was it that Alex threatened your child  
11 which caused you to engage in prostitution with him?

12 A. He threatened with harming her.

13 Q. And do I understand that, from your earlier testimony, he  
14 didn't know exactly where your child was? Is that true?

15 A. He knew where she was.

16 Q. Okay. Had he met your child before?

17 A. Yes.

18 Q. Okay. And, when he threatened you and then you decided  
19 to engage in prostitution, do I understand that about one week  
20 went past from the time that he threatened you until the time  
21 that you began to be involved in prostitution?

22 A. Yes.

23 Q. And where was it precisely that Alex took you to engage  
24 in prostitution?

25 A. At a house of his.

1 Q. And where was that house located?

2 A. In Maryland.

3 Q. And where in Maryland?

4 A. I don't remember the address.

5 Q. Do you recall whether or not it was in -- do you recall  
6 what town it was in?

7 A. No.

8 Q. And how long had you worked for him in that particular  
9 house?

10 A. One week.

11 Q. And then did you move to another house and work for Alex?

12 A. Yes.

13 Q. Now, before you started working for him, did you and Alex  
14 discuss payment?

15 A. No.

16 Q. Did you believe that you were going to receive money in  
17 exchange for having sex with other men?

18 A. Yes.

19 Q. But your testimony is you did not know how much money you  
20 were going to receive; is that correct?

21 A. Yes.

22 Q. Did there come a time when Alex ever paid you any money?

23 A. No.

24 Q. So, after the first week of working with Alex, you  
25 received no money; is that correct?

1 A. Yes.

2 Q. And then you said you went to a second house on the  
3 second week that you worked with him; is that true?

4 A. Yes.

5 Q. Do you recall where that house was?

6 A. The same place in Maryland.

7 Q. Was it in the same house?

8 A. Different house.

9 Q. Was it the same town?

10 A. Yes.

11 Q. You just don't recall what the town was?

12 A. No.

13 Q. Okay. And, after that second week, did you receive any  
14 money from Alex?

15 A. Never.

16 Q. How many weeks approximately, Ms. Franco, did you work  
17 for Alex?

18 A. Four weeks.

19 Q. Okay. And did you work at four different houses?

20 A. Yes.

21 Q. And Alex did not pay you at the end of any of those four  
22 weeks?

23 A. No.

24 Q. Did you ask him for payment?

25 A. Yes.

1 Q. And what did he say?

2 A. "No."

3 Q. Did you advise him that, if you were not paid, you would  
4 not work for him any longer?

5 A. Yes.

6 Q. And what did he say?

7 A. That I -- I couldn't tell that to him because he had my  
8 daughter.

9 Q. Were you living with your daughter during that timeframe  
10 when you worked with Alex?

11 A. No.

12 Q. Alex knew where you lived?

13 A. Yes.

14 Q. Had he ever visited your home?

15 A. I lived in a house of his.

16 Q. Okay. For the entire month?

17 A. During the time I was with him.

18 Q. I guess my question, Ms. Franco, is: Did you live in the  
19 houses where you were working each day, or did you live with  
20 Alex while you were working with Alex?

21 A. No, I didn't live with him.

22 Q. Okay. And, Ms. Franco, what was it that caused your  
23 relationship -- that is, your working with Alex -- to come to  
24 an end after approximately four weeks?

25 A. I did not say I worked only four weeks. I said I worked

1 the four weeks of the month always.

2 Q. Does that mean that you worked for Alex longer than four  
3 weeks?

4 A. Yes.

5 Q. Okay. So then let me try again. How long do you think  
6 you worked for Alex altogether?

7 A. I don't remember the time, but it was during the time I  
8 was with him.

9 Q. But you worked for him longer than four weeks; is that  
10 what our understanding is, ma'am?

11 A. Yes.

12 Q. Okay. How was it that you were moved from house to  
13 house? Did Alex himself move you from house to house, or did  
14 someone else move you from house to house?

15 A. Workers of his.

16 Q. Okay. During the entire timeframe you worked for Alex,  
17 did you ever receive any money from Alex?

18 A. No.

19 Q. Okay. And, once again, Ms. Franco, was the reason you  
20 were not paid any money was because he was holding your child?

21 A. Yes.

22 Q. Okay. How was it that you were able to provide any food  
23 at all for your child or for yourself?

24 A. He took care of that.

25 Q. Okay. Did Alex ever strike you?

1 A. Yes.

2 Q. How many times?

3 A. I don't remember.

4 Q. Was it more than once?

5 A. Yes.

6 Q. And would he use his hand to strike you?

7 A. Yes.

8 Q. Would he use his fist -- a clenched fist to strike you?

9 A. Yes.

10 Q. And, when he would use his open hand and hit you, where  
11 on your body would he hit you?

12 A. In the body.

13 Q. And can you recall today, Ms. Franco, exactly where on  
14 your body might he hit you with an open hand?

15 A. In places where it would not show that I had been hit.

16 Q. Okay. And, when he would strike you with a closed hand,  
17 can you recall where on your body he would strike you?

18 A. My stomach.

19 Q. Okay. Besides his hand, did he ever strike you with  
20 anything else?

21 A. No.

22 Q. And you did not recall how many times he actually did  
23 this? In other words, was it on one occasion, or two  
24 occasions, or three occasions, et cetera?

25 A. Several times. I lost count.

1 Q. Okay. As a result of any of those blows to you,  
2 Ms. Franco, did he ever cut you, as an example, with his  
3 fingernails, or something else?

4 A. No.

5 Q. Now, after you worked for Alex, do we understand that you  
6 continued to work in the prostitution business?

7 A. Yes.

8 Q. Did you ever work with a man called Pelon?

9 A. No.

10 Q. Did you know of a man named Pelon who was involved in the  
11 prostitution business?

12 A. No.

13 Q. Did you ever work for El Pollo?

14 A. No.

15 Q. Did you ever hear of a man involved in the prostitution  
16 business by the name of El Pollo?

17 A. No.

18 Q. Did you ever work for Omar?

19 A. No.

20 Q. Pollo, P-O-L-L-O?

21 **THE REPORTER:** Counsel --

22 **MR. RUTER:** Yes?

23 **THE REPORTER:** -- the last name you mentioned --

24 **MR. RUTER:** Yes?

25 **THE REPORTER:** -- is that Pollo?



1                   **MR. RUTER:** That's my pronunciation. P-O-L-L-O.

2                   One might pronounce that Pollo.

3                   **THE REPORTER:** Thank you.

4                   **MR. RUTER:** The question was -- and if I could ask  
5                   it again, Your Honor?

6                   **THE COURT:** Yes.

7                   **BY MR. RUTER:**

8                   Q. Did you ever work for a man named El Pollo?

9                   A. No.

10                  Q. And I had asked whether or not you ever worked for a man  
11                  named Omar?

12                  A. No.

13                  Q. Have you ever heard of a man named Omar who was involved  
14                  in the prostitution business?

15                  A. No.

16                  Q. I'm referring to a man I believe was also known as Omar  
17                  el Flaco.

18                  A. No.

19                  Q. So, after you worked for Alex, the question is: What was  
20                  it that caused you to no longer be working for Alex?

21                  A. I didn't want to work.

22                  Q. And you advised Alex of that fact?

23                  A. Yes.

24                  Q. And you didn't want to work because you weren't being  
25                  paid; is that accurate?

1 A. It wasn't because of that. I just didn't want to be with  
2 men.

3 Q. And did you advise Alex of that?

4 A. Yes.

5 Q. And what did he say?

6 A. That I had to continue.

7 Q. And did you?

8 A. Yes.

9 Q. Now, during this entire timeframe, Ms. Franco, did it  
10 ever occur to you to call the police on Alex?

11 A. Yes, but I wasn't able to.

12 Q. Okay. And did you have a cell phone?

13 A. No.

14 Q. And you were not able to for what reason or reasons?

15 A. Because he had my daughter.

16 Q. Okay. And --

17 **INTERPRETER KIRCHGESSNER:** Interpreter requests a  
18 conference with the --

19 (Interpreters conferring.)

20 **INTERPRETER KIRCHGESSNER:** The interpreter stands by  
21 her interpretation.

22 **MR. RUTER:** Okay.

23 **BY MR. RUTER:**

24 Q. When you advised Alex that you did not wish to work for  
25 him, is that when he would physically beat you?

1 A. Yes.

2 Q. Okay. Now, again, Ms. Franco, there did come a time when  
3 you stopped working for Alex, correct?

4 A. Yes.

5 Q. So the question, again, is: How was it that you stopped  
6 working for Alex?

7 A. When I met Chino.

8 Q. And how and where did you meet Chino?

9 A. They were friends.

10 Q. Who was friends?

11 A. Chino and Alex.

12 Q. And how do you know that?

13 A. They had the same business.

14 Q. The prostitution business?

15 A. Yes.

16 Q. And did you know whether or not Alex and Chino would,  
17 from time to time, have the same women working with them?

18 A. Yes.

19 Q. And did you know that before you actually met Chino?

20 A. No.

21 Q. Where was it, then, ma'am, that you actually met Chino?

22 A. At one of Alex's houses.

23 Q. And was Chino there as a customer?

24 A. Yes.

25 Q. And, the first time that you saw him at Alex's house as a

1 customer, did it turn out that he had sexual relations with  
2 you?

3 A. Yes.

4 Q. And do you know whether or not Chino paid for your  
5 services?

6 A. I don't know.

7 Q. Were you given any kind of a ticket, a playing card, a  
8 stone, or some other indicia of evidence that you had had sex  
9 with Chino?

10 A. No.

11 Q. Okay. When you worked for Alex, Ms. Franco, were you  
12 required to keep some kind of document or some kind of  
13 evidence as to how many men you had had sex with on a  
14 particular day?

15 A. Yes.

16 Q. Okay. And the reason, if the jurors understand it, was  
17 because that was the way that the owner would know how many  
18 men had come in and had sex with the ladies at a particular  
19 house; is that correct, ma'am?

20 A. Yes.

21 Q. And, to your knowledge, isn't it also true that that  
22 method was used so that the women would know how much money  
23 they were to receive at the end of a week's work?

24 A. Yes.

25 Q. And, to your knowledge of the business, all the ladies

1 who worked would keep some kind, if they could, of a ledger so  
2 they could know and remember by the week's end how much money  
3 they should receive; is that right?

4 A. Yes.

5 Q. Now, Ms. Franco, these ladies do that because they need  
6 the money; isn't that right?

7 **MS. YASSER:** Objection. Calls for speculation.

8 **THE COURT:** Sustained. You may rephrase.

9 **MR. RUTER:** Thank you, Your Honor.

10 **BY MR. RUTER:**

11 Q. The ledgers are kept by the ladies so they know how much  
12 money they should receive at the end of the week; is that  
13 correct?

14 A. Yes.

15 Q. And, in your experience in the business, you've actually  
16 seen the women receive cash at the end of the week for their  
17 week's labor; is that correct?

18 A. I never saw when they gave money to them.

19 Q. Okay. So, Ms. Franco, you met Chino when he came to  
20 Alex's -- one of Alex's houses, and you had sex with Chino,  
21 correct?

22 A. Yes.

23 Q. And, as a result of that encounter, how long was it  
24 before you left Alex and began to work with Chino?

25 A. I don't remember.

1 Q. Can you recall whether or not you'd ever had sex with  
2 Chino again while you were working with Alex?

3 A. I don't remember.

4 Q. Before you left to work with Chino, did Alex know that  
5 you were going to leave him and work with Chino?

6 A. No.

7 Q. What exactly did you do, Ms. Franco, to leave Alex?  
8 Physically, what did you do?

9 A. I left with Chino.

10 Q. Okay. And, prior to your leaving for Chino, you had been  
11 beaten several times by Alex; is that right?

12 A. Yes.

13 Q. And, prior to your leaving Alex, he had threatened you  
14 innumerable times, correct?

15 A. Yes.

16 Q. And, throughout the entire course of your working with  
17 Alex, he was holding your child, correct?

18 A. Yes.

19 Q. Were you therefore concerned that Alex would harm you  
20 should you leave him?

21 A. Yes.

22 Q. Would it be fair to say, Ms. Franco, that, while you  
23 worked with Alex, that you would have had sexual contact with  
24 hundreds of men?

25 A. Yes.

1 Q. And would it also be fair to say that, by your leaving  
2 Alex, you would be costing Alex thousands of dollars in  
3 income? Would that be correct?

4 A. Yes.

5 Q. Okay. And, notwithstanding, you decided to leave?

6 A. Yes.

7 Q. Did you recall, Ms. Franco, how long you were working  
8 with Chino before the police visited [REDACTED] on  
9 September 26th of 2008?

10 A. No.

11 Q. Okay. As best you can, Ms. Franco, can you tell the  
12 ladies and gentlemen of the jury: Was it a week before the  
13 police came on September 26th of 2008 that you first started  
14 working with Chino?

15 A. It wasn't one week. It was several.

16 Q. And that's what I'm trying to get at. So it was -- it  
17 was more than one week, correct?

18 A. Yes.

19 Q. And you believe it was more than two weeks?

20 A. I don't remember.

21 Q. Okay. Could you say, Ms. Franco, with confidence that it  
22 was less than a month that you were working with Chino before  
23 the police came to [REDACTED] on September 26th?

24 A. Yes.

25 Q. Okay. So would this be accurate, ma'am, to say that you

1 had been working with Chino for a shorter period of time  
2 before the police came in on September 26th of 2008 than the  
3 entire time that you'd worked with Alex?

4 A. Yes.

5 Q. Okay. After you left Alex, did you ever hear from him  
6 again?

7 A. No.

8 Q. Did he have your phone number?

9 A. No.

10 Q. While you worked for him, then, Ms. Franco, how would he  
11 be able to get a hold of you, or how would you be able to get  
12 a hold of him if you did not have a cell phone?

13 A. Because I worked in his houses, and his workers got in  
14 touch with him.

15 Q. Okay. All right. On September 26th, 2008, you met with  
16 various police officers, law enforcement; is that right?

17 A. Yes.

18 Q. Okay. And do you recall the names of any of those police  
19 officers that you'd met with, Ms. Franco?

20 A. I don't remember.

21 Q. Okay. Do you recall whether or not your conversation  
22 with the law enforcement officers was recorded?

23 A. No.

24 Q. Okay. You don't remember?

25 A. No.



1 Q. Do you know the name Detective Jeff Hartlove?

2 A. Yes.

3 Q. Yeah. And you know him because you've met with him  
4 several times; is that true?

5 A. Yes.

6 Q. Yes. And you also met with him on September 29th of  
7 2008, just a couple of days after the police raided [REDACTED]  
8 [REDACTED]; is that right?

9 A. I don't remember.

10 Q. Okay. Do you know a man named Detective Ed Carraballo --  
11 Carraballo?

12 A. Yes. I only saw him once.

13 Q. Okay. And you saw him on September 29th of 2008; did you  
14 not?

15 A. I don't remember the date.

16 Q. Okay. When you met with law enforcement on  
17 September 29th of 2008, where was your child on that date?

18 A. I don't remember.

19 Q. Is it possible, ma'am, that your child was taken by the  
20 Department of Social Services and that your child was in the  
21 custody of the Department of Social Services on September 29th  
22 of 2008?

23 A. Yes.

24 Q. Okay. Can you recall today, Ms. Franco, whether or not  
25 you told the detectives that you'd met with on September 29th

1 of 2008 that you were working in prostitution with Chino?

2 A. No.

3 Q. You'd told them that you were working in prostitution  
4 with Alex; is that right?

5 A. Yes.

6 Q. Yes. And did you tell the law enforcement officers,  
7 Ms. Franco, that Alex had threatened you?

8 A. Yes.

9 Q. And did you tell them that Alex had beaten you?

10 A. Yes.

11 Q. Okay. And those things were true; is that right?

12 A. Yes.

13 Q. Okay. Were you not concerned, Ms. Franco, that word may  
14 get back to Alex that you were telling the police that you'd  
15 worked for him in prostitution?

16 A. Yes.

17 Q. Now, after your conversation with the detectives on  
18 September 29th, 2008 -- that took place at a police station;  
19 did it not?

20 A. Yes.

21 Q. And you told the police, did you not, that you were  
22 afraid of Alex?

23 A. Yes.

24 Q. You told the police that you did not want to be involved  
25 in prostitution; is that correct?

1 A. Yes.

2 Q. The police officers told you, did they not, that they  
3 would help you get your child back?

4 A. No.

5 Q. They did not?

6 A. No.

7 Q. Why was it, Ms. Franco, that you went back to  
8 prostitution after September 29th of 2008?

9 A. By then, I was working with Chino.

10 Q. All right. Did you ask the police if they would help  
11 you, ma'am, so that you would not have to return to  
12 prostitution?

13 A. Yes.

14 Q. And what did the police say?

15 A. That they would help me.

16 Q. And what did they say they would do, though, to help you?

17 A. Take me to a -- that they would take me to a shelter.

18 Q. Okay. And, at that time, you realized that your daughter  
19 was safe; am I correct in saying that?

20 (Interpreters conferring.)

21 A. Yes.

22 Q. And the police advised you that they would find a shelter  
23 for you where you could live; is that correct?

24 A. Yes.

25 Q. And you did not want to be in the prostitution business,

1 did you?

2 A. No.

3 Q. So you rejected the police officers' offer to help you be  
4 removed from prostitution; is that right?

5 A. No.

6 Q. No? Then what -- what is right?

7 A. That very same night, I went back to [REDACTED].

8 Q. You could have gone to a shelter the same night, couldn't  
9 you?

10 A. Not at that time.

11 Q. The police offered you to stay in a shelter; did they  
12 not?

13 A. Right.

14 Q. And they offered you shelter that night, didn't they?

15 A. Yes.

16 Q. You, however, chose to go back to [REDACTED]?

17 A. I had to pick up some papers there.

18 Q. And what papers were they?

19 A. Papers from my country.

20 Q. And that's the reason why you went back to [REDACTED]  
21 [REDACTED]?

22 A. Yes.

23 Q. And, when you returned that evening, Ms. Franco, was  
24 Chino present?

25 A. No.

1 Q. And isn't it true that you could have gotten your papers  
2 and then gone to the shelter as the police had advised you  
3 they would do for you?

4 A. I couldn't leave after that.

5 Q. How did you get to [REDACTED] after you had your  
6 interview with the police?

7 A. I don't remember.

8 Q. Did you walk?

9 A. I don't know. I don't remember.

10 Q. Okay. Is it possible that the police themselves took you  
11 to [REDACTED]?

12 A. Yes. I don't remember.

13 Q. When you left Alex and went to work with Chino, you did  
14 so voluntarily; is that correct?

15 A. Yes.

16 Q. You indicated that, after being with Chino, there came a  
17 time when he -- he urged you to become involved in  
18 prostitution; is that right?

19 A. Yes.

20 Q. And we also understand that you resisted his request?

21 A. Yes.

22 Q. And you resumed prostitution; is that right?

23 A. Yes.

24 Q. And, Ms. Franco, did you continue that, the prostitution,  
25 uninterrupted after you were -- after the raid at [REDACTED]

1 [REDACTED] on September 26th of '08, did you then continue doing  
2 prostitution right on through 2008 into 2009?

3 A. Yes. I kept working for Chino.

4 Q. And, when you first started working for Chino, which we  
5 think -- tell me if I'm right -- is about a month before  
6 September 26th of 2008, did you live in one place, or did you  
7 live in different places?

8 A. Different places.

9 Q. Okay. So, if, Ms. Franco, you lived in different  
10 places -- and we're talking about approximately one month that  
11 you were with Chino before the raid on September 26th -- how  
12 many different places did you live in during those  
13 approximately four weeks?

14 A. [REDACTED].

15 Q. Did you live just at one place in [REDACTED], or did  
16 you live in more than one place before September 26th of '08?

17 A. Yes, other places.

18 Q. And where else besides [REDACTED] before  
19 September 26th of '08 did you live?

20 A. I don't remember.

21 Q. You were working; were you not?

22 A. Yes.

23 Q. For the entire four weeks before September 26th of '08?

24 A. Yes.

25 Q. And you were earning income?

1 A. I only worked for three weeks during that time.

2 Q. Before September 26th of '08?

3 A. Yes.

4 Q. And you were earning income?

5 A. Yes.

6 Q. And you were collecting the tickets from men?

7 A. Yes.

8 Q. And they were paying?

9 A. I only picked up the tickets. They paid the workers.

10 Q. And did you then get paid money after that?

11 A. No.

12 Q. Okay. So your testimony is you worked with Chino for  
13 about three weeks before the raid on September 26th of '08,  
14 and he never gave you a dime?

15 A. Yes.

16 Q. And your testimony is that, on September 29th of 2008,  
17 the police told you they would help you get your daughter back  
18 and would provide a place for you to live; is that correct?

19 A. They didn't tell me they were going to get my daughter  
20 back. They just said they would find a place -- a shelter for  
21 me to be in.

22 Q. Okay. Well, didn't the police show up at a hearing just  
23 a couple days later to help you get your daughter back?

24 A. No.

25 Q. Do you recall having a hearing before some kind of a

1 person in authority concerning what should happen to your  
2 daughter?

3 A. Yes.

4 Q. And are you telling these folks that you don't recall  
5 whether Detective Hartlove or some other law enforcement  
6 officer was there with you to assist you in getting your  
7 daughter returned?

8 A. Yes. They were there, but they never told me that they  
9 were going to try to help me recover my daughter.

10 Q. Why do you think they were there?

11 A. I don't know.

12 Q. They were there, Ms. Franco, were they not, to help you  
13 get your child returned to you?

14 A. I repeat: Once again, they never told me that at no  
15 time.

16 Q. Okay. Notwithstanding this, Ms. Franco, on  
17 September 29th, the police did offer you shelter, and, instead  
18 of taking the shelter, you returned to [REDACTED] to  
19 continue with prostitution; is that correct?

20 A. I did not come back for that, but to get some papers.

21 Q. Okay. You continued in prostitution from September 29th  
22 of 2008 until November the 15th of 2010; is that correct?

23 A. Yes.

24 Q. Yeah. With the exception of a few weeks when you worked  
25 for the recycling company?



1 A. Yes, but I worked at recycling during the day, and, at  
2 night, I worked.

3 Q. So you worked at the recycling company during the day,  
4 and then you did prostitution at night?

5 A. Yes.

6 Q. Ms. Franco, you were visited by the police on  
7 November 15th of 2010; is that right?

8 A. Yes. Yes.

9 Q. And do you recall that you were interviewed by the police  
10 again?

11 A. Yes.

12 Q. And, at this time, when you were interviewed, you were  
13 pregnant; is that right, ma'am?

14 A. Yes.

15 Q. And you were pregnant with Chino's child; is that also  
16 correct?

17 A. Yes.

18 Q. Now, on the September 29th, 2008 statement you gave,  
19 you'd never told the police that you worked for Chino; is that  
20 correct?

21 A. No.

22 Q. On November 15, 2010, you did tell them that you worked  
23 with Chino; is that correct?

24 A. Yes.

25 Q. Now, you told the police that you knew of a man named

1 Freddy Soriano?

2 A. No. I don't remember.

3 Q. Okay. Did you know a person named Freddy Soriano on  
4 November 15th of 2010?

5 A. Yes.

6 Q. And what did you know him to be, or in what business did  
7 you know him to be in?

8 A. I knew he was a worker of Chino's.

9 Q. So he and Soriano worked together; is that your  
10 understanding?

11 A. Yes.

12 Q. Okay. Ms. Franco, did you have -- do you know who a man  
13 named Raudel is?

14 A. What I knew is that he was another person that had a  
15 business.

16 Q. A prostitution business?

17 A. Yes.

18 Q. And did you understand that Raudel would give women to  
19 Alex so they also could work for Alex?

20 A. No.

21 Q. Okay. Did you ever know Alex to, if you will, take women  
22 from other owners, and then those other owners give girls --  
23 women to Alex?

24 A. Yes.

25 Q. Did you know whether or not Alex ever gave any women to

1 Chino?

2 A. No.

3 Q. Did you ever know Chino to give women to Alex?

4 A. No.

5 Q. Okay. Did you ever know any of the women to be passed  
6 between friends?

7 A. Yes.

8 Q. And what does that mean, ma'am?

9 A. That the woman that worked in one house had to go work in  
10 another house.

11 Q. And what does it mean, though, to be passed between  
12 friends?

13 A. That they shared the women.

14 Q. Okay. Was Chino a friend of Freddy?

15 A. He was a worker of his.

16 Q. Okay. Did you tell the police on November 15th, 2010,  
17 that you had seen Chino with a gun?

18 A. Yes.

19 Q. Do you recall telling them when the last time was prior  
20 to November 15th, 2010, that you had seen a gun?

21 A. No.

22 **MR. RUTER:** She said, "No"? I'm sorry. Did I hear  
23 an answer?

24 **INTERPRETER KIRCHGESSNER:** Yes, she said no.

25 **MR. RUTER:** Okay.

1 **INTERPRETER KIRCHGESSNER:** The interpreter repeats.

2 **BY MR. RUTER:**

3 Q. Do you recall where it was that you saw this gun?

4 A. [REDACTED].

5 Q. Okay. And did you have any discussions with Chino about  
6 that gun?

7 A. Yes. The last time I saw it.

8 Q. And what was that conversation?

9 A. To remove that from there because I did not want to have  
10 problems with the owner of the house.

11 Q. Okay. Did you tell him that you would not allow it?

12 A. Yes.

13 Q. And you're saying that he never moved it?

14 A. Yes, he took it.

15 Q. Did he hit you or strike you when you told him to remove  
16 it?

17 A. No.

18 Q. He just removed it, you're saying?

19 A. Yes.

20 Q. When you were working with Chino, Ms. Franco, did he ever  
21 ask you to call any of the girls that were supposed to be  
22 working to see if they were going to come to work?

23 A. Yes.

24 Q. And did you do that?

25 A. Yes.

1 Q. Could you tell us exactly what happened, please.

2 A. He would give me the telephone number for the girl to  
3 call and see if she was going to come and work, because  
4 sometimes he was busy and he couldn't do it himself.

5 Q. And so you'd make the call for him?

6 A. Yes. Twice.

7 Q. And, when you made the call, were there some times when  
8 the girl could not make it and then other times when the girl  
9 could make it?

10 A. No.

11 Q. And the two instances that you actually did that, to your  
12 knowledge, did the girls come to work, or don't you know?

13 A. I don't know if they came.

14 Q. Okay. Did you ever tell the police that Raudel was the  
15 head of Chino?

16 A. Yes.

17 Q. And what does that mean, that Raudel is the head of  
18 Chino?

19 A. It means that Chino told me to say that.

20 Q. So was he, or was he not the head of Chino?

21 A. No.

22 Q. Okay. Now, you told the police that on November 15th of  
23 2010, correct?

24 A. Yes.

25 Q. Okay. And Chino here was locked up on November 15th,

1 2010, wasn't he?

2 A. Yes.

3 Q. When was it, then, that he told you to tell the police  
4 that Raudel was his head or his boss?

5 A. He always told me that -- to say that in case the police  
6 arrested him.

7 Q. Did you know: Was there a person named Raudel?

8 A. I never met him.

9 Q. Well, the question is: To your knowledge, was there a  
10 business owner named Raudel?

11 A. Yes.

12 Q. Okay. Do we understand, Ms. Franco, that there are a lot  
13 of owners of prostitution businesses of which you are aware?

14 A. Yes, I know that, but I don't know them.

15 Q. Okay. And you know that many are female owners; is that  
16 right?

17 A. No.

18 Q. Did you tell the police that one Carlita was a business  
19 owner?

20 **INTERPRETER KIRCHGESSNER:** Interpreter requests  
21 clarification on the name. Juan Carlita?

22 **MR. RUTER:** No. Just one, Carlita.

23 **THE WITNESS:** Yes.

24 **BY MR. RUTER:**

25 Q. And Carlita, is that a female, or is that a male?

1 A. A man.

2 Q. Did you ever work for Carlita?

3 A. No.

4 Q. Did you ever hear of an owner named Brenda?

5 A. No.

6 Q. Did you ever hear of an owner named Vivian?

7 A. Yes.

8 Q. And is she -- is that a woman, or is that a man?

9 A. A woman.

10 Q. And did you ever work for Vivian?

11 A. No.

12 Q. Okay. Didn't Alex have you work for at least one woman?

13 A. No.

14 Q. Okay. And you know of an owner named Carlos?

15 A. Yes.

16 Q. And you know of a owner named Jose?

17 A. Yes.

18 Q. Did you tell the police that you sent money home to your  
19 mother?

20 A. Yes.

21 Q. And did you send money home to your mother?

22 A. No.

23 Q. Did you, however, tell the police that you did send money  
24 home to your mother?

25 **MS. YASSER:** Asked and answered, Your Honor.

1                   **THE COURT:** Overruled.

2                   **THE WITNESS:** Yes.

3                   **BY MR. RUTER:**

4                   Q.    And you told the police that you wanted to leave Chino,  
5                   but you couldn't because you had to send money home to your  
6                   mother; is that correct?

7                   A.    I don't -- I don't remember that conversation. I don't  
8                   remember.

9                   Q.    Can you recall telling the police that you need to  
10                  work -- "I need to send money to my house. My mother is  
11                  sick"?

12                  A.    Yes.

13                  Q.    Does that mean that you did not tell the police the truth  
14                  on November 15th, 2010, when you told them that you needed to  
15                  work so you could send money home to your mother?

16                  A.    Yes.

17                  Q.    Do you recall the police asking you when the last time  
18                  was you ever sent money home when you talked to them on  
19                  November 10th of 2010?

20                  A.    I don't remember.

21                  Q.    Do you recall telling them that you had sent money home  
22                  about one week before you were interviewed on November 15th of  
23                  2010?

24                  A.    No.

25                  Q.    No, what?



1 A. I don't remember.

2 MR. RUTER: May I approach, Your Honor?

3 THE COURT: Yes.

4 MR. RUTER: Madam Clerk, may we have this marked for  
5 identification as Defense Number 5?

6 THE COURT: Have you shown it to the Government?

7 (Document tendered to Ms. Yasser.)

8 (Counsel conferring.)

9 MR. RUTER: Just for identification only.

10 BY MR. RUTER:

11 Q. Ms. Franco, I'm going to ask the interpreter to read to  
12 you silently Page 99 and 100.

13 INTERPRETER KIRCHGESSNER: The interpreter will  
14 sight translate these two pages.

15 (Interpreter translating document to the witness.)

16 INTERPRETER KIRCHGESSNER: Interpreter concluded the  
17 sight interpretation.

18 BY MR. RUTER:

19 Q. Ms. Franco, the interpreter has had a chance to read you  
20 Page 99 and 100 of the exhibit; is that correct?

21 A. Yes.

22 Q. Does the reading of the document help you to refresh your  
23 recollection concerning what you told the police about the  
24 last time that you'd sent money home to your mother?

25 A. Yes.

1 Q. And when was that?

2 A. I don't remember the date, but, yes, on occasions, I sent  
3 her money. I begged him to give me money to send to my mother  
4 because she was sick.

5 Q. So, then, is your answer you did send money home, or you  
6 didn't send money home?

7 A. About three times.

8 Q. Okay. Was that money that you received as a result of  
9 your prostitution activities?

10 A. I did not deposit the money; it was him who deposited it,  
11 and it wasn't much. It was just a hundred -- just bare  
12 hundred dollars.

13 Q. On November the 15th of 2010, did you tell police that  
14 the reason that women worked in prostitution is because of the  
15 money which they received as a result of working in the  
16 business?

17 A. Some, they do. Some don't. Some, they are threatened to  
18 work, I believe.

19 Q. Did you tell the -- did the police ask you whether or not  
20 Chino threatened the girls to work for him?

21 A. Yes.

22 Q. And what did you tell the police when they asked you  
23 that?

24 A. That he would threaten them on the phone.

25 Q. That's what you told the police on November 15th, 2010?

1 A. That's what I remember.

2 Q. And what you told them on that date was the truth; was it  
3 not?

4 A. Yes.

5 Q. Okay.

6 **MR. RUTER:** Rachel?

7 (Document tendered to Ms. Yasser.)

8 (Counsel conferring.)

9 **BY MR. RUTER:**

10 Q. Now, on September 15th, 2010 -- I'll make sure I have  
11 this right, Ms. Franco --

12 **MR. CUNNINGHAM:** November.

13 Q. November 15th, 2010. I'll make sure I get this right.  
14 The police specifically asked you whether or not Chino ever  
15 threatened any of the girls; is that right?

16 A. Yes.

17 Q. And you gave them a response; is that correct?

18 A. Yes.

19 **MR. RUTER:** Now, Your Honor, I wonder if this is a  
20 good time to take the morning break?

21 **THE COURT:** Okay. Members of the jury, we're going  
22 to take the morning break now. Please remember, don't discuss  
23 the case among yourselves or with anyone else. I will call  
24 for you at noon. We will resume at noon.

25 (Jury excused.)

1                   **THE COURT:** How much more do you have, Mr. Ruter?

2                   **MR. RUTER:** Maybe 45 minutes with the Court's  
3 permission?

4                   **THE COURT:** No, you don't have my permission for 45  
5 minutes more.

6                   **MR. RUTER:** Half hour?

7                   **THE COURT:** Twenty minutes. You've been at it for  
8 two hours and 43 minutes. You have 20 more minutes.

9                   **MR. RUTER:** So, come 12 o'clock, Your Honor, I'll  
10 have until 12:20.

11                   **THE COURT:** Yes.

12                   **MR. RUTER:** Thank you.

13                   **THE COURT:** We're in recess.

14                   **THE CLERK:** This Honorable Court now stands in  
15 recess.

16                   (Recess taken, 11:34 a.m. - 12:00 p.m.)

17                   **THE CLERK:** All rise. This Honorable Court now  
18 resumes in session.

19                   **THE COURT:** Counsel, approach.

20                   (Whereupon, the following discussion occurred at the  
21 bench.)

22                   **MR. MONTEMARANO:** Good morning, Your Honor.

23                   **THE COURT:** I understand the witness has a health  
24 problem -- she's being attended by a physician now -- one of  
25 the things I noticed during the course of your examination,

1 Mr. Ruter. In any event, I'm told by the physician that she  
2 needs at least another half hour, so I'm going to send the  
3 jury out for lunch, and we'll resume at 2 o'clock and see  
4 where everyone is physically at that point. Juror Number 11  
5 has a baptist convention that he wants to go to, which would  
6 require him to leave tomorrow morning, be gone Wednesday and  
7 Thursday. We have four alternates. I will hear from you if  
8 you wish to try to keep him on, but I'm inclined --

9 **MR. MONTEMARANO:** No objection --

10 **THE COURT:** I'm inclined to grant --

11 **MR. MONTEMARANO:** No objection from Mr. Fuertes.

12 **THE COURT:** I'm inclined to excuse him.

13 **MS. YASSER:** No objection.

14 **THE COURT:** Now, Mr. Ruter, you were saying?

15 **MR. MONTEMARANO:** No. Actually, I was the one who  
16 asked for the bench conference.

17 **THE COURT:** Yes?

18 **MR. MONTEMARANO:** Your Honor had indicated a desire  
19 to shorten Mr. Ruter's cross.

20 **THE COURT:** Yes.

21 **MR. MONTEMARANO:** If I could advise the Court as  
22 follows: Mr. Ruter and I spent a good 45 minutes consulting  
23 yesterday afternoon after the close of business about where we  
24 intended to go today with regard to cross so as not to extend  
25 it too long on my part with what Mr. Ruter has done. I had

1 reserved earlier yesterday 45 minutes for cross of this  
2 witness.

3 **THE COURT:** Yes.

4 **MR. MONTEMARANO:** I'm prepared to alert the Court  
5 that, if Mr. Ruter is granted 45 minutes to finish what he  
6 believes he needs to do and we had talked about doing, I'll  
7 cut mine back. I probably wouldn't need more than 20. So  
8 it's the same amount of time. Mr. Ruter, in essence, having  
9 prepared it --

10 **THE COURT:** But then I still have to listen to it.  
11 I'm teasing, of course, Mr. Ruter. You've been a joy.

12 **MR. MONTEMARANO:** Well, the alternative is to listen  
13 to me, Your Honor, and I'm not teasing.

14 **THE COURT:** That's okay. Maybe the jurors will come  
15 out of the box and cut it short, so no problem there. Tell  
16 you what? I'll think about it, and we'll resume at 2 o'clock.

17 **MR. RUTER:** Yes, sir.

18 **THE COURT:** And, at that point, I'll have some more  
19 information about the witness -- first of all, whether the  
20 witness herself will be able to continue. If she's not able  
21 to continue today, then I'm inclined to grant you the  
22 additional time. If, however, she wants to get it done today,  
23 then I'm not going to let you kill the witness.

24 **MR. MONTEMARANO:** Oh, sure, Your Honor, but I'm  
25 saying the two of us together shouldn't take more than an

1 hour.

2 **THE COURT:** Well, of which 20 minutes will be him.

3 **MR. MONTEMARANO:** Well, but we could do it the other  
4 way as Your Honor was suggesting.

5 **MR. RUTER:** Your Honor, I would submit that she's  
6 apt to survive me better than him. That's the way I see it.

7 **MR. MONTEMARANO:** There is that.

8 **THE COURT:** There is that, yeah.

9 **MS. YASSER:** Three hours in, and she needs medical  
10 care. I'm not so sure, Gerry.

11 **MR. RUTER:** Well, okay.

12 **MR. MONTEMARANO:** If she'd give a straight answer --

13 **THE COURT:** I had -- well, I have no sense that  
14 she's being evasive in any way.

15 **MR. MONTEMARANO:** I don't think it's much evasive --

16 **THE COURT:** I could not imagine, frankly, the stress  
17 she must be under. Think of the embarrassment of having to do  
18 this --

19 **MR. MONTEMARANO:** Oh, not a question.

20 **THE COURT:** -- in front of a courtroom full of  
21 strangers. This is not a pleasant experience for her. That's  
22 the century's understatement. This is not a --

23 **MR. MONTEMARANO:** And I'm not suggesting that I'm  
24 insensitive, Your Honor, but it seems --

25 **THE COURT:** No. I'm not suggesting that you should

1 be any less vigorous in your advocacy, but sometimes vigor  
2 requires also some caution and common sense.

3 **MR. MONTEMARANO:** Absolutely. My point is that it's  
4 taking so long, and it seems to me that perhaps the  
5 appropriate way to analogize this for the witness' benefit  
6 would be like, when you yank a band-aid off, it hurts a lot,  
7 but it's over with. She is doing this so slowly, and I think  
8 it's prolonging the agony.

9 **THE COURT:** Well, again, she's not a particularly  
10 well-educated woman.

11 **MR. MONTEMARANO:** True.

12 **THE COURT:** She's doing this slowly because the  
13 examination is being conducted in a foreign language and she's  
14 not familiar with it, and it's not something that she's done  
15 just to Mr. Ruter. She took a long time, as I recall, in  
16 responding to the Government's questions as well. So it's not  
17 as if she was quick on the response to --

18 **MR. MONTEMARANO:** Not at all.

19 **THE COURT:** -- the direct and is dragging her feet  
20 in response to the Defense. I mean, she is -- this is a  
21 genuinely unpleasant experience, and she hasn't been  
22 volunteering information for either side frankly.

23 In any event, as I said, at 2 o'clock, we'll all  
24 have some more information. I'll know from her physician what  
25 the situation is and whether it is, in fact, possible for her



1 to continue today. If her doctor thinks, as I said, it's  
2 possible for her to continue tomorrow and she's fresh, then I  
3 might very well give you your total 65 minutes any way you  
4 want to spend it, if she's fresh and available to go tomorrow,  
5 but, in my opinion, she was in observable distress during the  
6 last half hour or so of Mr. Ruter's examination.

7 **MR. MONTEMARANO:** For the record, I note that, with  
8 the monitor in the way, I see nothing but the top of her head,  
9 notwithstanding my height.

10 **THE COURT:** Yes. Well, that was just my opinion,  
11 but I think she was in observable distress.

12 Okay. 2 o'clock, folks.

13 **MS. YASSER:** Thank you, Your Honor.

14 **MR. MONTEMARANO:** Thank you, sir.

15 **THE COURT:** Belinda, would you tell the jury we're  
16 going to take an early lunch break and that we will resume at  
17 2:00, and get Number 11 to himself and tell him that we will  
18 let him go, but he should not discuss that with anyone. He  
19 should just not come in tomorrow.

20 **THE CLERK:** Yes.

21 **THE COURT:** Okay.

22 (Whereupon, the bench conference was concluded.)

23 **THE COURT:** Okay. We are in recess until 2:00 --  
24 2:00 p.m.

25 **THE CLERK:** All rise. This Honorable Court is now

1 in recess until 2:00 p.m.

2 (Luncheon recess -- 12:09 p.m.)

3 (Afternoon session -- 2:00 p.m.)

4 **THE CLERK:** All rise. This Honorable Court now  
5 resumes in session.

6 **THE COURT:** Please be seated.

7 Is Dr. Baker here?

8 **MS. YASSER:** She is.

9 **THE COURT:** May I speak to her, please?

10 **MS. YASSER:** Sure.

11 **THE COURT:** Counsel, approach.

12 (Whereupon, the following discussion occurred at the  
13 bench.)

14 **THE COURT:** Good afternoon.

15 **DR. BAKER:** Good afternoon.

16 **THE COURT:** Dr. Mesa Baker?

17 **DR. BAKER:** Yes.

18 **THE COURT:** My understanding is that you are a  
19 medical doctor; is that correct?

20 **DR. BAKER:** Yes.

21 **THE COURT:** I think I've seen you in another trial,  
22 haven't I?

23 **DR. BAKER:** Yes.

24 **THE COURT:** Okay. Dr. Baker, you've had a chance to  
25 examine the witness who is on the stand?

1                   **DR. BAKER:** Correct.

2                   **THE COURT:** What was her state when you examined  
3 her? How would --

4                   **DR. BAKER:** For today?

5                   **THE COURT:** Yes.

6                   **DR. BAKER:** Seemed to be having a severe anxiety  
7 attack, very distraught, seems to have pulled herself  
8 together. My only concern is this persistent pain in her arm,  
9 which is a little odd. I'm used to tingling and numbness and  
10 maybe other things.

11                  **THE COURT:** If that were male, we'd be thinking  
12 heart attack?

13                  **DR. BAKER:** Yeah. We'd be worried about heart  
14 attacks. I've queried her about her background, family's  
15 background. It's not significant, so I don't think she's  
16 having a heart attack in front of us, but I would recommend  
17 she follow up with her physician later, particularly if this  
18 pain doesn't settle down.

19                  **THE COURT:** Do you have any opinion about her  
20 ability to continue the examination this afternoon?

21                  **DR. BAKER:** As far as I can tell, I think she's able  
22 to go forward.

23                  **THE COURT:** Okay. Thank you.

24                  **DR. BAKER:** Certainly.

25                  **THE COURT:** May we have the witness, please? Don't

1 go yet, guys.

2 MR. RUTER: Do you want the Government, Your Honor?  
3 Mike?

4 THE REPORTER: Counsel?

5 MS. YASSER: Excuse us, Your Honor.

6 THE COURT: That's okay. Waiting for the witness.

7 I want to ask her a few questions while she's --

8 MS. YASSER: Oh, probably doesn't know to bring her.

9 THE COURT: Okay. And I will need an interpreter at  
10 the bench, please.

11 MR. CUNNINGHAM: You want her at the bench, Your  
12 Honor?

13 THE COURT: Yes.

14 INTERPRETER KIRCHGESSNER: Yes, Your Honor. I was  
15 interpreting.

16 THE COURT: Thank you.

17 INTERPRETER KIRCHGESSNER: Of course speaking with  
18 you.

19 THE COURT: Good afternoon, Ms. Dueñas Franco. How  
20 do you feel?

21 THE WITNESS: A little better.

22 THE COURT: Okay. Do you feel well enough to  
23 continue examination today?

24 THE WITNESS: I would like to finish right now with  
25 this.

1           **THE COURT:** Okay. So you would rather complete this  
2 today than come back at another time?

3           **THE WITNESS:** Yes.

4           **THE COURT:** Okay. Thank you very much.  
5 Will you step back, please.

6           **MS. YASSER:** Can she take the witness stand?

7           **THE COURT:** Yes, she can take the witness stand.  
8 Counsel, don't go away yet.

9           Mr. Montemarano, what was your proposal?

10          **MR. MONTEMARANO:** On time?

11          **MR. RUTER:** Shifting of time.

12          **MR. MONTEMARANO:** Oh, we would take an hour, and  
13 Mr. Ruter would irrigate to himself about 40, and I would  
14 irrigate to myself about 20. If he gets his 40, I can  
15 probably keep mine at 20. I'm going to have to do it.

16          **THE COURT:** Okay. Let's do it.

17          **MR. MONTEMARANO:** Thank you, Your Honor.

18          (Whereupon, the bench conference was concluded.)

19          **THE COURT:** Does she have water?

20          **THE CLERK:** She has water?

21          **THE WITNESS:** Yes.

22          **THE COURT:** Counsel, are you ready for the jury?

23          **MS. YASSER:** Yes, Your Honor.

24          **MR. MONTEMARANO:** Yes, Your Honor. Thank you.

25          (Jury enters.)

1                   **THE COURT:** Thank you. Please be seated.

2                   **THE CLERK:** I would like to remind you, you are  
3 still under oath.

4                   **THE WITNESS:** Thank you.

5                   **THE COURT:** Mr. Ruter.

6                   **MR. RUTER:** May it please the Court.

7                   **BY MR. RUTER:**

8                   Q. Good afternoon, Ms. Dueñas Franco.

9                               Ma'am, we were discussing your meeting that you had  
10 with various police officers on November 15th of 2010. Do you  
11 recall that?

12                  A. Yes.

13                  Q. Were you asked by the police whether or not Chino had  
14 ever forced you to work in prostitution with him?

15                  A. Yes.

16                  Q. And do you recall what your response was at that time?

17                  A. No.

18                  Q. Do you recall whether or not you told the police that you  
19 were not forced to do prostitution by Chino?

20                  A. No.

21                  Q. Does that mean, no, you do not recall, or, no, you were  
22 not forced?

23                  A. I don't remember.

24                  Q. Okay. And, before I approach with the Court's  
25 permission, do you recall whether or not you told the police

1 whether or not other girls were threatened by Chino?

2 A. Yes.

3 Q. And, yes, you recall, or, yes, he forced the girls to do  
4 prostitution?

5 A. Yes, he forced them.

6 **MR. RUTER:** Your Honor, if I could have this marked  
7 as Defense Exhibit Number 7 for identification only, please.

8 **THE COURT:** Defense 7 for identification.

9 **MR. RUTER:** Thank you, ma'am.

10 **THE CLERK:** You're welcome, sir.

11 **MR. RUTER:** May I approach the witness, Your Honor?

12 **THE COURT:** Yes.

13 **BY MR. RUTER:**

14 Q. Ms. Franco, I'm going to ask the interpreter to read for  
15 you Page 102 and Page 103, down to Line 6 on Page 103.

16 **MR. RUTER:** Thank you.

17 **INTERPRETER KIRCHGEISSNER:** Interpreter will sight  
18 translate this page.

19 (Interpreter translating document to the witness.)

20 **MR. RUTER:** Thank you, madam.

21 **INTERPRETER KIRCHGEISSNER:** Interpreter has finished  
22 the interpretation.

23 **BY MR. RUTER:**

24 Q. Ms. Franco, as a result of the interpreter reading these  
25 two pages to you, do you have a recollection today as to

1 whether or not you were asked by the police if you were forced  
2 to work for Chino in prostitution by force?

3 A. It's true I never said that.

4 Q. And, when you say you never said that, what you're saying  
5 is you told the police that you were never threatened by Chino  
6 to do prostitution; is that correct?

7 A. Yes, I said that, because I was afraid.

8 Q. And you also told the police on the same day that Chino  
9 never threatened any of the other girls; is that also true?  
10 You told the police that?

11 A. Yes.

12 Q. Okay. Then why did you tell them that?

13 A. I say it again. Because I was afraid.

14 Q. You were so afraid that you turned right around and went  
15 back to [REDACTED] the same night, didn't you?

16 A. Yes, but I repeated already that it was to get some  
17 papers.

18 Q. What papers were they you were going to get, Ms. Franco?

19 A. Papers that were sent from my country -- birth  
20 certificate.

21 Q. And are you telling us that you did not have the ability  
22 to have the police officers go with you and to retrieve those  
23 documents that you thought you had to have?

24 A. Yes.

25 Q. Did you ever do anything with those papers that you had



1 to go get?

2 A. Yes.

3 Q. What did you do with them?

4 A. I needed to get my passport.

5 Q. And was that so you could return home?

6 A. Yes.

7 Q. To go home to your homeland with your child?

8 A. Yes.

9 Q. But you never did that, did you?

10 A. No.

11 Q. Do you recall, during this interview you had with the  
12 police, whether or not the police asked you about whether  
13 Chino ever talked about the death of El Pelon?

14 A. Yes.

15 Q. What did they ask you?

16 A. If Chino had threatened Pelon.

17 Q. And what did you tell them?

18 A. That he placed some telephone calls to him.

19 Q. Are you sure that's what you told the police?

20 A. Yes.

21 **MR. RUTER:** Page 108 and 109.

22 (Counsel conferring.)

23 **MR. RUTER:** If I could have this marked as Defense  
24 Number 8 for identification.

25 **MR. CUNNINGHAM:** Mr. Ruter, can you repeat the page,

1 please, of that document?

2 **MR. RUTER:** This is 108 and 109.

3 Madam Interpreter, can you read Lines 17 and 18,  
4 please.

5 **INTERPRETER KIRCHGESSNER:** Yes, of course.

6 **MR. RUTER:** I'm not so sure if it's 17 and 18 or 18  
7 and 19. Here and here, just these two lines on Page 108.

8 (Interpreter translating document to the witness.)

9 **MR. RUTER:** I think that's it.

10 **BY MR. RUTER:**

11 Q. Ms. Franco, you just had the interpreter read Lines 18  
12 and 19 of Page 108. Having read this, do you have a  
13 recollection today as to whether or not you told the police  
14 that Chino never discussed the death of El Pelon after  
15 El Pelon was killed?

16 A. Yes. I remember, it's true, at that moment, I lied  
17 again.

18 Q. Okay. Thank you.

19 Ma'am, at the time that you had this conversation,  
20 do you recall whether or not you lived on [REDACTED], or  
21 on November 15th of 2010?

22 A. Yes.

23 Q. And had you lived there for approximately a year before  
24 the interview which took place on November 15, 2010?

25 A. Yes.

1 Q. And were you involved in prostitution throughout the  
2 entire year of 2010?

3 A. Yes.

4 Q. Was [REDACTED] ever used as a place for  
5 prostitution?

6 A. Never.

7 Q. Do you recall being asked during this interview on  
8 November 15th, 2010, when the last time was that you had ever  
9 seen Chino with a gun?

10 And withdraw that question. That's not the question  
11 I wanted to ask.

12 How long before November 15th, 2010 had you worked  
13 in the prostitution business?

14 A. I don't remember.

15 Q. You were pregnant at the time, correct?

16 A. Yes.

17 Q. You worked at the [REDACTED] address on occasion for  
18 the purpose of prostitution; is that correct?

19 A. Yes.

20 Q. Whose house of prostitution was that?

21 A. Chino's.

22 Q. Did you tell the police that that was Chino and Alex's  
23 house of prostitution?

24 A. Yes.

25 Q. Why did you do that?

1 A. I was afraid.

2 Q. And it was your fear that caused you to tell the police  
3 that Alex and Chino owned this house for prostitution?

4 A. Yes.

5 Q. At the time, did you understand that Alex and Chino were  
6 friends or associates in the prostitution business while you  
7 were working at [REDACTED]?

8 A. No.

9 Q. Now, do you recall, on November 15th of 2010, having a  
10 second interview with the police on the same evening, but  
11 later -- later that evening?

12 A. I did not understand clearly.

13 Q. There appears to have been two separate interviews that  
14 took place on November 15th of 2010. The first interview  
15 started approximately 8:44 p.m. Do you recall that?

16 A. Yes.

17 Q. And that interview lasted for over two hours. Do you  
18 recall that?

19 A. Yes.

20 Q. And then you kind of almost immediately started a second  
21 interview, which started at 10:56 p.m., and that went on for  
22 just about 26 minutes. Do you recall that?

23 A. Yes.

24 Q. Do you recall being asked when the last time was that  
25 you'd seen Chino with a gun?

1 A. I don't remember.

2 Q. Okay. Let me ask you today, Ms. Franco: Do you recall  
3 today, prior to November 15th of 2010, when did you last see  
4 Chino with a gun?

5 A. I don't know. I don't remember very well. Around eight  
6 months prior.

7 Q. Do you recall telling the police that you had seen a  
8 cream-colored gun about a month to a month and a half before  
9 your November 15th, 2010 interview?

10 A. Before 2010?

11 Q. Do you recall telling the police that you had seen Chino  
12 with a gun approximately in October of 2010?

13 A. Yes.

14 Q. Do you also recall telling the police that you saw Chino  
15 and Alex at the same time with this gun we're talking about?

16 A. Yes.

17 Q. Was that true?

18 A. Yes.

19 Q. And you saw, then -- you're telling the ladies and  
20 gentlemen of the jury today you saw both Alex and Chino at the  
21 same time with a gun; is that right?

22 A. Yes.

23 Q. And this is the same Alex that you had been a prostitute  
24 for; is that right?

25 A. Yes.

1 Q. This is the same Alex that beat you up so many times you  
2 can't remember; is that right?

3 A. Yes, the same one.

4 Q. And this is the same Alex that had never paid you a dime;  
5 isn't that right?

6 A. Yes.

7 Q. And, Ms. Franco, isn't it true that Alex and Chino were  
8 competitors?

9 A. No.

10 Q. Were they friends?

11 A. Friends, and, at the same time, enemies.

12 Q. So you saw two friends and two enemies at the same time  
13 with one gun; is that your testimony?

14 A. Yes.

15 Q. Where did the gun come from?

16 A. I don't know.

17 Q. Where did the gun go?

18 A. I don't know.

19 Q. You told the police that Alex took the gun, didn't you?

20 A. I don't remember.

21 Q. All right.

22 MR. RUTER: Rachel, this is Page 14 of the second  
23 interview.

24 MR. CUNNINGHAM: Defense 9?

25 MR. RUTER: It will be 9, yeah. Thank you very

1 much.

2 Madam Interpreter, if you could read from Page 14 --

3 **MS. YASSER:** Can you have -- Gerry, can you have her  
4 read --

5 **MR. RUTER:** I'm sorry?

6 **MS. YASSER:** The translator on here --

7 (Counsel conferring.)

8 **MR. RUTER:** It's actually incorrect? It's your  
9 translation.

10 (Counsel conferring.)

11 **MR. RUTER:** If you could read Line 2 through  
12 Line 9 -- to Line 10.

13 **INTERPRETER BLUMBERG:** Interpreter sight  
14 translating.

15 (Interpreter translating portion of the document to  
16 the witness.)

17 **BY MR. RUTER:**

18 Q. Ma'am, having listened to that, do you now recall that  
19 you told the police that Alex kept the gun?

20 A. Yes.

21 Q. And whose gun was it?

22 A. Chino's.

23 Q. Chino. So Chino gave that gun to his enemy; is that  
24 right?

25 A. Yes.

1 Q. During the second interview on the same date, Ms. Franco,  
2 do you recall the detectives asking you once again whether or  
3 not Chino had ever held you against your will?

4 A. I don't remember.

5 Q. Do you recall telling the police that he did not hold you  
6 against your will?

7 A. Yes.

8 Q. And did you tell the police that he did not hold you  
9 against your will?

10 A. Yes.

11 Q. Do you recall telling the police that you worked because  
12 you needed the money?

13 A. Yes.

14 Q. Do you recall, ma'am, telling the police that Chino told  
15 you he did not want you to work in prostitution?

16 A. Yes.

17 Q. And you told the police that Chino told you he did not  
18 want you to work in prostitution; is that right?

19 A. Yes.

20 Q. Ms. Franco, when was it that you found out that Chino was  
21 married and that he had a child with his wife?

22 A. I don't remember.

23 Q. You did find out, though, didn't you?

24 A. Yes.

25 Q. And that changed your relationship with Chino; did it



1 not?

2 A. No.

3 Q. You had a romantic relationship with Chino; did you not?

4 A. No.

5 Q. You did not love him or care for him affectionately; is  
6 that your testimony?

7 A. No.

8 Q. And is it your testimony also that Chino did not have  
9 love or affection for you?

10 A. No.

11 **MR. RUTER:** Your Honor, if I could display at this  
12 time Defense Exhibit Number 6, Government counsel has already  
13 seen it. It's been introduced without objection. If I could  
14 figure out how to --

15 Q. Ms. Franco, can you identify that picture? Is it on your  
16 screen to your right?

17 A. Yes.

18 **MR. RUTER:** If I could inquire of the jurors -- if I  
19 could inquire, Your Honor, if the jurors' screens are on?  
20 Mine is not, so --

21 **JURORS:** Yes.

22 **THE COURT:** They are.

23 **BY MR. RUTER:**

24 Q. And, Ms. Franco, that is you, and that's Chino; is that  
25 right?

1 A. Yes.

2 Q. And that's -- you're in Virginia Beach; is that correct?

3 A. Yes.

4 Q. This is a picture of you as well; is that right, ma'am?

5 A. Yes.

6 Q. And you're directing your expression here to whom?

7 A. Chino.

8 Q. Okay. Were you mad at him?

9 A. Yes.

10 Q. At that time, you were?

11 A. Yes.

12 Q. Okay. And were you mad at him when this picture here was  
13 taken?

14 A. No.

15 Q. No? Well, when was this picture taken in relation to  
16 that picture?

17 A. I don't remember the date.

18 **THE COURT:** Do they have exhibit numbers?

19 **MR. RUTER:** Your Honor, this is collectively 6.

20 **THE COURT:** Okay.

21 **BY MR. RUTER:**

22 Q. They're all taken -- these pictures are all taken within  
23 moments of each other, weren't they, Ms. Franco?

24 A. Yes.

25 Q. Okay. This picture, you were mad at him; is that right?

1 A. Yes, but that day, I was drunk.

2 Q. All right. And, when this picture was taken, were you  
3 mad at him?

4 A. I told you: I was drunk.

5 Q. In this picture, were you also drunk?

6 A. Yes.

7 Q. And then, finally, this picture, were you also drunk?

8 A. Yes, in all of them.

9 Q. So you're telling the ladies and gentlemen on the jury  
10 that these are not pictures of two individuals who are  
11 expressing affection, one for another; is that correct?

12 A. What I know is that I was very drunk that day. I don't  
13 remember what I did that day.

14 Q. Did you and Chino have discussions about the fact that  
15 you have a child together and the fact that you needed child  
16 support from him?

17 A. No.

18 Q. Let me ask if I could back up, Ms. Franco. When you  
19 discovered that Mr. Ventura here was, in fact, married and had  
20 a child with his wife, did that surprise you?

21 A. Yes.

22 Q. And can you tell the folks here how it was that it did  
23 surprise you?

24 A. Because I thought he was on his own.

25 Q. And you thought that you two were going to become a

1 couple, didn't you?

2 A. No.

3 Q. Okay. So back to the child support. Are you saying that  
4 you -- did the police ever -- did you ever tell the police on  
5 November 15th of 2010 that you and Chino had come to an  
6 agreement on the issue of child support?

7 A. No.

8 Q. Okay. Do you recall telling the police that you told him  
9 that he had to help you?

10 A. I don't remember.

11 Q. Do you recall telling the police that he said, "Okay,"  
12 and, "Let's come to an agreement"?

13 A. No.

14 **MR. RUTER:** Page 22 and 23, if I could have this  
15 marked for identification, please. Thank you.

16 Madam Interpreter, if you could read Page 22 and  
17 Page 23, please.

18 **INTERPRETER BLUMBERG:** Page -- last -- the entire  
19 pages?

20 **MR. RUTER:** The entire, yes.

21 (Interpreter translating Defense Exhibit 10 to the  
22 witness.)

23 **BY MR. RUTER:**

24 Q. Having listened to that, Ms. Franco, do you now recall  
25 having told the police that you and Chino had discussed your

1 need for child support?

2 A. I don't remember that conversation. I don't --

3 Q. At all?

4 A. No.

5 Q. Okay. Do you recall, the same day, the police asking you  
6 another time, once again, whether or not Chino had ever hit  
7 you?

8 A. Yes.

9 Q. And do you recall telling the police, "No, never"?

10 A. Yes.

11 Q. Do you recall, ma'am, being in the Grand Jury on  
12 December 7th of 2010?

13 A. Yes.

14 Q. And you were placed under oath, just like you were in  
15 this courtroom yesterday; isn't that right?

16 A. Yes.

17 Q. And you were asked whether or not you had ever heard  
18 anything about the murder of El Pelon; were you not?

19 A. Yes.

20 Q. And you told the Grand Jury under oath that the answer to  
21 that question was no; is that right?

22 A. Yes.

23 **MR. RUTER:** The last series of questions, if I  
24 could, Your Honor.

25 Q. Ms. Franco, you told the authorities that there was about

1 a period of seven to eight months when you were locked up by  
2 Chino here; is that right?

3 A. Yes.

4 Q. And do you recall where you were locked up by Chino?

5 A. Yes.

6 Q. Where was that?

7 A. [REDACTED].

8 Q. And, when you said that you were locked up, does that  
9 mean that you were not allowed to leave the house for a period  
10 of seven to eight months?

11 A. Yes.

12 Q. And, therefore, you're telling us that, for a period of  
13 seven to eight months, you never left that [REDACTED]  
14 address; is that correct?

15 A. Yes, I did leave there, because sometimes I went out with  
16 him.

17 Q. When he was not there, who was with you, if anyone?

18 A. His workers.

19 Q. Was that house being used as a house of prostitution?

20 A. Yes.

21 Q. And were you working as a prostitute at that time?

22 A. Yes.

23 Q. And was that six days a week?

24 A. Monday to Sunday.

25 Q. Okay. And, for that seven to eight months, do we

1 understand, then, that you never went to another house to work  
2 with Chino; you stayed in that house for seven to eight  
3 months? Is that correct?

4 A. No. Sometimes I went out with him.

5 Q. And, when you say you went out with him, that means you  
6 went out to -- to a restaurant or something? Is that what  
7 that means?

8 A. It was to do deliveries.

9 Q. Okay. So the only time you left the house was to do  
10 other prostitution work; is that correct?

11 A. Or to go shopping.

12 Q. And during this entire time that you were doing  
13 prostitution; is that right?

14 A. Yes.

15 Q. And there were other girls in the house?

16 A. Yes. They would come to work there.

17 Q. And, during that entire time, did you receive any money  
18 from Chino?

19 A. Just to go buy food.

20 Q. Where was your older child during this timeframe?

21 A. Social Services.

22 Q. And did you have your second child yet?

23 A. No.

24 Q. Were you pregnant with your second child yet?

25 A. No.

1                   **MR. RUTER:** Your Honor, I have no further questions.

2                   Thank you very much.

3                   **THE COURT:** Thank you.

4                   **MR. RUTER:** Thank you.

5                   **THE COURT:** Mr. Montemarano?

6                   **MR. MONTEMARANO:** Thank you, Your Honor.

7                   Ms. Goldstein, are you ready?

8                   **CROSS-EXAMINATION**

9                   **BY MR. MONTEMARANO:**

10                  Q. Good afternoon, Ms. Franco.

11                  A. Good afternoon.

12                  Q. We have never met before, have we?

13                  A. No.

14                  Q. Nor have we spoken before?

15                  A. No.

16                  Q. My name is Michael Montemarano. I represent  
17                  Kerlin Fuertes. You know who Kerlin is, right?

18                  A. Yes.

19                  Q. That's him sitting over here; is it not?

20                  A. Yes.

21                  Q. I'd like to ask you just a few questions about Kerlin, if  
22                  I could. Can you help me understand some of the answers  
23                  you've given before?

24                  A. Yes.

25                  Q. Do you remember, at the end of the questions asked to you



1 by Ms. Yasser, you were asked if you feared Kerlin? Do you  
2 remember that question?

3 A. Yes.

4 Q. And you remember your answer was: No, you do not fear  
5 him; is that a fair statement?

6 A. Yes.

7 Q. And that was the truth; was it not?

8 A. Yes.

9 Q. And that's because you had no reason to fear Kerlin, did  
10 you?

11 A. No.

12 Q. In fact, you had a good relationship with Kerlin, didn't  
13 you?

14 A. It wasn't that great.

15 Q. Well, he was nice to you; was he not?

16 A. Yes.

17 Q. He never hit you?

18 A. No.

19 Q. He never beat you?

20 A. No.

21 Q. He was kind to you?

22 A. Yes.

23 Q. He didn't take advantage of you?

24 A. No.

25 Q. He never restrained you?

1 A. No.

2 Q. And, during the entire time you knew Kerlin, you had a  
3 relationship with Mr. Ventura; did you not?

4 A. Yes.

5 Q. That's Mr. Ventura meaning Chino, correct?

6 A. Yes.

7 Q. Now, if I understand correctly, you have spoken to the  
8 police many times about what you knew about Mr. Ventura; is  
9 that a fair statement?

10 A. Yes.

11 Q. And the first time was on the night of the 28th to the  
12 29th of September of 2008, correct?

13 A. Yes.

14 Q. And the second date was approximately 16 months later in  
15 November of 2010, correct?

16 A. Yes.

17 Q. And you were spoken to twice on that evening, correct?

18 A. Yes.

19 Q. And then you spoke before the Grand Jury about a month  
20 later on the 7th of December?

21 A. Yes.

22 Q. And then you spoke to them again in May of 2011; is that  
23 a fair statement?

24 A. Yes.

25 Q. And it was only in May of 2011 that you finally

1 remembered that there was blood on Kerlin's shoes; is that a  
2 fair statement?

3 A. Yes.

4 Q. And that was the first time you had mentioned that,  
5 correct?

6 A. Yes.

7 Q. And it was only in May of 2011 you had mentioned there  
8 was blood on Kerlin's shirt; is that correct?

9 A. Yes.

10 Q. And that was approximately, by my count, five months  
11 after you answered the questions before the Grand Jury,  
12 correct?

13 A. Yes.

14 Q. And, Mr. Cunningham, this gentleman right here, was the  
15 one asking you the questions in front of the Grand Jury; was  
16 he not?

17 A. Yes.

18 Q. And that was when you said you knew nothing about  
19 anything relating to the murder of El Pelon, correct?

20 A. Yes.

21 Q. And that was the first time you mentioned that you had  
22 seen Kerlin with a gun; isn't that correct -- May of 2011?

23 A. Yes.

24 Q. And you had no reason to be scared of Kerlin; is that  
25 correct?

1 (Interpreter conferring with the witness.)

2 **INTERPRETER GOLDSTEIN:** Interpreter would like to  
3 advise the Judge that she wants to keep going, but she's not  
4 feeling very well.

5 **THE COURT:** Okay.

6 **MR. MONTEMARANO:** I'll be quick, Your Honor.

7 **THE COURT:** Thank you.

8 **MR. MONTEMARANO:** Sure.

9 **INTERPRETER GOLDSTEIN:** The interpreter would like  
10 to go back to the last question.

11 **THE WITNESS:** No.

12 **BY MR. MONTEMARANO:**

13 Q. And you still really have no reason to fear Kerlin,  
14 correct?

15 A. No.

16 Q. He's not like Mr. Ventura, is he?

17 A. No.

18 Q. Because you know he had nothing to do with the murder of  
19 El Pelon, correct?

20 A. Yes, I heard.

21 **MR. MONTEMARANO:** Nothing further, Your Honor.

22 **THE COURT:** Thank you.

23 Redirect?

24 **MS. YASSER:** Thank you, Your Honor.

25

**REDIRECT EXAMINATION**

**BY MS. YASSER:**

Q. Ms. Dueñas, you've been cross-examined now for almost four hours, so I want to try to be quick, but I want to make sure I give you an opportunity to explain a few things as well where you may not have had that chance, and I want to start with the pictures that Mr. Ruter showed you from Virginia Beach. Ms. Dueñas, do you recall having worked in Virginia Beach earlier that day in prostitution?

A. Yes.

Q. And I think you testified on direct that, after you left the beach where those photos were taken, you had to go back to work?

A. Yes.

Q. So my question for you is: Were you happy when those photos were taken to have a break from working in prostitution?

A. No.

Q. You weren't happier to be on the beach than you were to be working in a brothel?

A. Yes.

Q. Now, with respect to how you first started in prostitution, I just want to reverse and talk to you a little bit about your time with Alex very briefly.

Alex's brothels were in a different part of Maryland

1       than Chino's; is that correct? Did I understand your  
2       testimony correctly?

3       A.    Yes.

4       Q.    And did I also understand that, when you worked for Alex,  
5       your daughter was living, being cared for by someone else?

6       A.    Yes.

7       Q.    And who was that person?

8       A.    One of Alex's aunts.

9       Q.    And you testified that you eventually met Chino at one of  
10      Alex's houses where Alex was -- where Chino was a customer; is  
11      that correct?

12      A.    Yes.

13      Q.    And was Chino nice to you then?

14      A.    Yes.

15      Q.    And did you tell Chino you wanted to leave Alex's?

16      A.    Not at that time.

17      Q.    Did you eventually ask Chino to help you leave Alex's?

18      A.    Yes.

19      Q.    And did he agree to help you?

20      A.    Yes.

21      Q.    Did you feel that Chino could protect you from Alex?

22      A.    Yes.

23      Q.    And what about your daughter? What happened with your  
24      daughter?

25      A.    I went to get her from where she was.

1 Q. And was Chino with you then?

2 A. Yes.

3 Q. Now, there was a period of time, if I understand your  
4 direct testimony, where you were with Chino, and you did not  
5 have to work in prostitution. Did I understand that  
6 correctly?

7 A. At the beginning.

8 Q. And that changed sometime later?

9 A. Yes.

10 Q. And then there was a period of time that you worked for  
11 Chino before you were encountered by the police in September  
12 of 2008?

13 A. Yes.

14 Q. And, just so it's clear, because I think it seemed like  
15 you were a little bit confused, are you unclear about how long  
16 it was that you worked for Chino before you were encountered  
17 by the police in September of 2008?

18 A. It had been months.

19 Q. It had been some time?

20 A. Yes.

21 Q. And, when you talked to the police in 2008, your daughter  
22 had been taken from you; is that correct?

23 A. Yes.

24 Q. And you were trying to get her back?

25 A. Yes.

1 Q. And where was Chino, Ms. Dueñas? Had Chino been arrested  
2 that day?

3 A. No.

4 Q. He was on the street?

5 A. Yes.

6 Q. What about Flaco? Was he also on the street?

7 A. At that time, he was in the house.

8 Q. And, a couple days earlier, Flaco had gone with you to  
9 the police station; is that correct?

10 A. Yes.

11 Q. Ms. Dueñas, were you illegally in the country at the time  
12 that you talked to the police in September of 2008?

13 A. Yes.

14 Q. At that time, Ms. Dueñas, why didn't you tell the police  
15 about Chino when you talked to them?

16 A. I was scared.

17 Q. What were you scared of?

18 A. Chino.

19 Q. When you were encountered approximately two years later  
20 in November of 2011, you did -- Chino was arrested that day;  
21 is that correct?

22 A. Yes.

23 Q. And you did tell the police you were working for Chino at  
24 that time?

25 A. Yes.



1 Q. And you were asked, Ms. Dueñas --

2 MS. YASSER: And I'd like to refer Defense counsel  
3 to Page 102 of that statement.

4 Q. You were asked about the reason --

5 MR. MONTEMARANO: What? Which statement?

6 MS. YASSER: 102. November 15th, 2010, Page 102.

7 BY MS. YASSER:

8 Q. You were asked about the reason women work in  
9 prostitution, and you told the police that many do it for the  
10 necessity or because our pimps have threatened us. They want  
11 us to work, so we work, but no one does it out of pleasure.

12 Do you recall telling the police that?

13 A. Yes.

14 Q. And you had told the police that Chino was, in fact, your  
15 pimp at the time?

16 A. That's right.

17 Q. And you also told the police that -- you were asked did  
18 you feel safe to go back to your house. Do you remember being  
19 asked that by the police?

20 A. Yes.

21 Q. And you told the police that, if I don't go to my house,  
22 he will suspect something. I don't know if he has people  
23 outside. Do you recall that answer?

24 A. Yes.

25 Q. But you didn't tell the police everything about Chino

1 that day. I think that much is clear; is that correct,

2 Ms. Dueñas?

3 A. Yes.

4 Q. Now, Chino had been arrested that day; is that correct?

5 A. Yes.

6 Q. Were there other occasions that you're aware of when  
7 Chino had been arrested?

8 A. Yes.

9 Q. And what happened on those other occasions -- those prior  
10 occasions when Chino was arrested?

11 A. He would only be in for a day or two, and then he'd get  
12 out again.

13 Q. Ms. Dueñas, you were also asked about El Pelon in  
14 November of 2011. Do you recall that?

15 A. Yes.

16 Q. And you were asked if you thought that Chino had anything  
17 to do with the killing of that man, and your answer was,  
18 "Well, everything that I have heard --"

19 **MR. MONTEMARANO:** Objection.

20 **THE COURT:** Sustained.

21 **BY MS. YASSER:**

22 Q. Ms. Dueñas, do you recall being asked about the killing  
23 of El Pelon?

24 A. Yes.

25 Q. Do you recall whether you gave the police any indication

1 that you might have had information about that murder?

2 A. No.

3 Q. You were also asked at that time if you were scared of  
4 Chino. Do you recall being asked that?

5 A. Yes.

6 Q. Do you recall answering in the affirmative?

7 A. Yes.

8 **MR. MONTEMARANO:** Objection.

9 **THE COURT:** Overruled, but only because it's late.

10 **BY MS. YASSER:**

11 Q. Ms. Dueñas, following your statement on November 15th of  
12 2010 when Chino was arrested, you did testify in front of the  
13 Federal Grand Jury on December 7th of 2010. Do you recall  
14 that?

15 A. Yes.

16 Q. And this was now after Chino had been locked up for  
17 nearly a month; is that correct?

18 A. Yes.

19 Q. And did you provide additional information about Chino at  
20 that time?

21 A. Yes.

22 Q. You did not provide information about El Pelon at that  
23 time; is that correct?

24 A. No.

25 Q. Do you recall Mr. Cunningham telling you before he

1       excused you that, if you needed to change something you said  
2       or add to it, that you may be given the opportunity to do so  
3       so long as the Grand Jury has not already acted on your  
4       testimony?

5               **MR. MONTEMARANO:** Objection.

6               **THE COURT:** Overruled. That's foundational.

7               **THE WITNESS:** Yes.

8       **BY MS. YASSER:**

9       Q.     And do you recall also being informed that, if that  
10       should come about, you could let one of the agents or you can  
11       let one of the agents or the victim assistant coordinator  
12       know, and they'll get in touch with us. Do you recall that?

13       A.     Yes.

14       Q.     And do you recall whether, if some months later, you got  
15       in touch --

16               **MR. MONTEMARANO:** Objection.

17               **THE COURT:** Sustained. Sustained. Sustained.

18               **MS. YASSER:** Your Honor, may we --

19               **THE COURT:** Sustained.

20       **BY MS. YASSER:**

21       Q.     Ms. Dueñas, back on November 15th of 2010, you did give  
22       information about Kerlin Fuertes. Do you remember that?

23               **MR. MONTEMARANO:** Objection. Leading.

24               **THE COURT:** Overruled.

25               **THE WITNESS:** Yes.

1 **BY MS. YASSER:**

2 Q. Do you recall being asked questions about whether  
3 Mr. Fuertes had a gun?

4 A. Yes.

5 Q. And do you recall giving affirmative answers to those  
6 questions?

7 **MR. MONTEMARANO:** Objection.

8 **THE COURT:** Sustained.

9 **MS. YASSER:** Your Honor, may we approach?

10 **THE COURT:** What was the answer?

11 **BY MS. YASSER:**

12 Q. What was the answer, Ms. Dueñas?

13 A. Yes.

14 Q. Yes, you -- yes, what, Ms. Dueñas?

15 A. That I had seen them.

16 Q. And you also gave information --

17 **MR. MONTEMARANO:** Objection.

18 **THE COURT:** Overruled.

19 **BY MS. YASSER:**

20 Q. You were asked on cross-examination about a prior  
21 statement involving a yellow gun. Do you recall those  
22 questions on cross-examination?

23 Cream-colored. Excuse me. Cream-colored.

24 A. Yes.

25 Q. Do you recall also describing that that gun had other

1 colors on it?

2 A. Yes.

3 Q. And what was that color?

4 A. Black.

5 Q. Now, Ms. Dueñas, you were asked questions about Kerlin  
6 Fuertes, and you testified that Kerlin, compared to Chino, was  
7 nice to you. Do you recall that?

8 **MR. MONTEMARANO:** Objection. Misstating the  
9 question.

10 **THE COURT:** Overruled. The jury will rely on their  
11 recollection of the questions and testimony.

12 **THE WITNESS:** Yes.

13 **BY MS. YASSER:**

14 Q. And, over a period of time, you actually lived with  
15 Mr. Fuertes; is that correct?

16 A. Yes.

17 Q. And was that during a time where you were working for  
18 Chino?

19 A. Yes.

20 Q. And was Kerlin working for Chino at the same time?

21 A. Yes.

22 Q. And did Kerlin see how Chino would treat you?

23 A. On one occasion.

24 Q. And what was that occasion?

25 A. When he hit me.

1 Q. And was that an occasion that you previously testified  
2 about?

3 A. Yes.

4 Q. Was that the occasion with the belt?

5 A. Yes.

6 MS. YASSER: No further questions, Your Honor.

7 MR. RUTER: Just very briefly.

8 THE COURT: Mr. Ruter?

9 **RECROSS-EXAMINATION**

10 **BY MR. RUTER:**

11 Q. Ms. Franco, you'd indicated that there were other  
12 occasions before November 15th, 2010, when Chino had been  
13 arrested; is that right?

14 A. Yes.

15 Q. He was never arrested for prostitution, though, was he?

16 A. No.

17 Q. Now, when you first started seeing Chino while you were  
18 working for Alex, would it be fair to say, Ms. Franco, that  
19 you two were, for lack of a better word, dating?

20 A. Yes.

21 Q. And you were dating for the purpose of getting to know  
22 one another as a couple; would that be a fair statement?

23 A. Yes.

24 Q. Yes. Okay. And then last question, Ms. Franco: On  
25 November 15th, 2010, Ms. Yasser had asked you whether or not

1 you were asked by the police if you were scared of Mr. -- of  
2 Chino. Do you recall her asking that question?

3 A. Yes.

4 Q. And you told the police that you were scared; is that  
5 right?

6 A. Yes.

7 Q. And you also told them you were scared because Chino  
8 would get mad; is that right?

9 A. Yes.

10 Q. You told the police that he would get excited; is that  
11 right?

12 A. Yes.

13 Q. And you told the police that he never hit you?

14 A. Yes.

15 **MR. RUTER:** Thank you, ma'am.

16 **THE COURT:** Thank you. Only five one last  
17 questions.

18 Mr. Montemarano?

19 **MR. MONTEMARANO:** Thank you, Your Honor.

20 **MR. RUTER:** I'm doing better, Your Honor.

21 **RECROSS-EXAMINATION**

22 **BY MR. MONTEMARANO:**

23 Q. Ms. Franco, you have testified that you were scared when  
24 you first talked to the police in September of 2008; is that a  
25 fair statement?



1 A. Yes.

2 Q. And you were nervous?

3 A. Yes.

4 Q. But you talked to the police for quite a long while on  
5 the night of the 28th, 29th of September; did you not?

6 A. Yes.

7 Q. I'd like to talk to you about the very beginning of your  
8 conversation with the two detectives. One was a Spanish  
9 speaker, Detective Carraballo, correct?

10 A. Yes.

11 Q. And the other was Detective Hartlove, correct?

12 A. Yes.

13 Q. The buzz cut, flat top?

14 A. Yes.

15 Q. Okay. Do you remember being asked the following  
16 question? Now, you were spoken to by Detective Carraballo in  
17 Spanish; is that correct?

18 A. Yes.

19 Q. Do you remember being asked the following question?

20 **MS. YASSER:** Objection, Your Honor.

21 **THE COURT:** Basis?

22 **MS. YASSER:** Is this going to call for a hearsay  
23 response now?

24 **THE COURT:** Overruled.

25 **BY MR. MONTEMARANO:**

1 Q. "And we have several -- we have already talked to many  
2 witnesses. We have a lot of our information, and part of our  
3 investigation led us to your house, [REDACTED] of [REDACTED], and  
4 that's why we found you there, and we'd like to talk to you."

5 Do you remember that question?

6 A. Yes.

7 Q. Do you recall your response?

8 A. No.

9 Q. If I showed you a document, might it refresh your  
10 recollection of what your response was to the police?

11 A. Yes.

12 MR. MONTEMARANO: Page 2 of the transcript of 29  
13 September.

14 (Counsel conferring.)

15 MR. MONTEMARANO: Can we just mark this as another  
16 Defense exhibit? I don't need it marked separately for  
17 Mr. Fuertes.

18 THE CLERK: Number 11.

19 MR. MONTEMARANO: Eleven. Gracias.

20 BY MR. MONTEMARANO:

21 Q. I'm going to show you what's been marked for  
22 identification as Defense 11. I'm going to show you here the  
23 part that I read. Do you see your answer? Does that refresh  
24 your recollection?

25 A. Yes.

1 Q. Okay. You answered yes? You had said, "Uh-huh." You  
2 answered in the affirmative; is that correct?

3 A. Yes.

4 Q. And then Detective Carraballo said, "Okay." Do you  
5 remember that?

6 A. Yes.

7 Q. And do you remember your response?

8 A. No.

9 Q. I'd like to show it to you, see if this refreshes your  
10 recollection.

11 MR. MONTEMARANO: Can you read from Line 16 to  
12 Line 19.

13 THE REPORTER: Page?

14 MR. MONTEMARANO: Lines 15 through 19.

15 THE REPORTER: Page?

16 MR. MONTEMARANO: Page 2. It's Page 2 of the  
17 transcript.

18 INTERPRETER KIRCHGESSNER: The interpreter will  
19 translate the lines requested by the attorney, Page 2.

20 (Interpreter translating portions of the document to  
21 the witness.)

22 BY MR. MONTEMARANO:

23 Q. Do you recall that?

24 A. I don't even understand the question.

25 Q. This suggests that your response to Detective

1 Carraballo --

2 MS. YASSER: Objection.

3 THE COURT: Sustained.

4 MR. MONTEMARANO: Would you --

5 THE REPORTER: Would you tell me for the record what  
6 is being translated.

7 MR. MONTEMARANO: Line 9, beginning with the  
8 question -- beginning with "and" by Detective Carraballo, can  
9 you translate all the way through the section that I asked you  
10 to translate, Ms. Kirchgessner?

11 INTERPRETER KIRCHGESSNER: Interpreter will  
12 translate from Line 9 to the end of the page, Page 2.

13 (Interpreter translating portions of the document to  
14 the witness.)

15 INTERPRETER KIRCHGESSNER: The interpreter finished  
16 the sight interpretation.

17 MR. MONTEMARANO: Thank you.

18 BY MR. MONTEMARANO:

19 Q. Does having that translated to you a second time refresh  
20 your recollection?

21 A. Yes.

22 Q. Your response to the question was: "Fire away. Shoot.  
23 Ask your questions," correct?

24 THE COURT: Please get out of the jury box,  
25 Mr. Montemarano. Thank you.

1                   **THE WITNESS:**   Yes.

2                   **BY MR. MONTEMARANO:**

3                   Q.    And then you laughed, correct?

4                   A.    Yes.

5                   **MR. MONTEMARANO:**   No further questions, Your Honor.

6                   Thank you.

7                   **THE COURT:**   Thank you.   You may step down.

8                   (Witness excused.)

9                   **THE COURT:**   Call your next witness.

10                  **MS. YASSER:**   The United States calls Mary Mesa  
11                  Baker.

12                  **THE CLERK:**   Raise your right hand.

13                  **MARY-THERESA BAKER**

14                  **WAS THEN DULY SWORN TO TELL THE TRUTH**

15                  **THE CLERK:**   Be seated.   You can scoot up and pull  
16                  the chair up.   Speak directly toward that microphone.   You can  
17                  pull it down if you like.

18                  State your name, and then spell it for the record,  
19                  please.

20                  **THE WITNESS:**   Mary-Theresa Baker, M-A-R-Y, dash,  
21                  T-H-E-R-E-S-A.

22                  **DIRECT EXAMINATION**

23                  **BY MS. YASSER:**

24                  Q.    Good afternoon, Dr. Baker.

25                  A.    Hi.

1 Q. Are you a medical doctor, ma'am?

2 A. Yes, I am.

3 Q. And how long have you been a doctor?

4 A. Twenty-five years.

5 Q. And where do you currently work?

6 A. I am the Medical Director of the Baltimore Child Abuse  
7 Center.

8 Q. What are some of your job responsibilities and duties as  
9 the Director of the Baltimore Child Abuse Center?

10 A. I perform the complete medical exam and forensic evidence  
11 and photo collection for alleged cases of child abuse that  
12 occur typically in Baltimore City.

13 Q. And is that for acute care, or non-acute care?

14 A. Those are non-acute cases.

15 Q. And what does that mean exactly, to be a non-acute versus  
16 an acute case?

17 A. Particularly for sexual abuse evaluations, after 72 hours  
18 for prepubertal children, and after five days or 120 hours --

19 **THE REPORTER:** I'm sorry. One more time, a little  
20 bit slower if you would.

21 **THE WITNESS:** I'm sorry. 72 hours is the cutoff for  
22 prepubertal children. Five days, 120 hours is the cutoff for  
23 postpubertal patients for acute evidence collection with the  
24 rape kits, the DNA, and those sorts of things.

25 **BY MS. YASSER:**

1 Q. And do your examinations also include full physical  
2 examinations -- forensics, physical examinations?

3 A. Yes. Every patient is examined from head to toe.

4 Q. And you used the word "child," and we've heard  
5 "adolescent" before as well. Can you just put a general age  
6 range on those terms.

7 A. Pediatricians typically see children and adolescents and  
8 young adults up to about 21 to 24 at most places.  
9 Occasionally some of the clinics -- adolescent clinics  
10 specialize all the way up to 26.

11 Q. And does the Baltimore Child Abuse Center see patients  
12 within those age ranges?

13 A. Yes, we do.

14 Q. And do you also from time to time see older adults?

15 A. Yes, we do.

16 Q. Why would either young adults or older adults be seen at  
17 the Baltimore Child Abuse Center?

18 A. Older adults, particularly those who are mentally  
19 disabled, are sent to the Child Abuse Center for non-acute  
20 exams because it's a calmer, more friendly, and supportive  
21 environment.

22 Q. Dr. Baker, where did you receive your education?

23 A. I had my undergraduate degree from the Pennsylvania State  
24 University in 1984. My medical degree is from the Medical  
25 College of Pennsylvania in 1988. I trained in pediatric

1 adolescent medicine in El Paso, Texas, graduated in '91, and  
2 passed my Boards that November.

3 Q. I'm sorry. Where did you do your residency?

4 A. In William Beaumont Army Medical Center in El Paso,  
5 Texas.

6 Q. Now, as part of your education and training, did you  
7 receive training on how to perform forensic medical  
8 examinations?

9 A. I did. When I first finished residency and was  
10 transferred to Hawaii, Tripler Army Medical Center sent me to  
11 the San Diego Children's Hospital for a week-long forensic  
12 colposcopy course. I then had cases in Hawaii of various  
13 types.

14 Four years later, where -- the Army sent me to Fort  
15 Bragg, North Carolina, and then, two years after that, then  
16 came to Baltimore, and, in the interim, I would get continuous  
17 CME and training, attend conferences on the subject;  
18 particularly, a San Diego conference on child maltreatment and  
19 the American Professional Society on the abuse of children.

20 Q. And does all that training and education you just  
21 described include the examination of skin for injury?

22 A. Yes.

23 Q. And do you also train others on how to perform these  
24 forensic exams that you just described?

25 A. Yes, I do. Medical students mostly, family practice and



1       pediatric residents, but also nurse examiners, staff doctors  
2       come to rotate with me and learn about how to do abuse exams.

3       Q.   And have you received any awards for your work throughout  
4       the years, Dr. Baker?

5       A.   I have received best senior resident award in my training  
6       program, a teaching award for family practice while in Hawaii,  
7       and a community service award through my *alma mater* in  
8       Philadelphia.

9       Q.   Are you currently licensed to practice medicine in the  
10       state of Maryland?

11       A.   Yes, I am.

12       Q.   And you mentioned you are Director of the Baltimore Child  
13       Abuse Center. How long have you held that position?

14       A.   I had been there for 16 years. It will be this summer.

15       Q.   And what did you do before that?

16       A.   That -- then I was two years in Fort Bragg, North  
17       Carolina, general pediatrics as well as the forensic exams.

18       Q.   Do you hold any Board certifications?

19       A.   Yes. I am Board certified in pediatric and adolescent  
20       medicine from the American Board of Pediatrics since 1991, and  
21       I am sub-Boarded in the area of child abuse pediatrics since  
22       that was first given in 2005.

23       Q.   And, over the course of your approximate 25-year career  
24       as a medical doctor, have you examined individuals where there  
25       is a concern of possible past injury?

1 A. Yes.

2 Q. Approximately how many individuals would you say you've  
3 examined?

4 A. It has to be more than 3,000. Just for the Baltimore-  
5 area cases, I've done more than 3,000, and I did a number  
6 of -- before I came to Baltimore.

7 Q. And that's for both physical and sexual injury?

8 A. It's a complete physical exam for all patients.

9 Q. And would you say it's been mostly children and  
10 adolescents that you've examined?

11 A. Yes. The bulk of our work is through like 18.

12 Q. Have you been qualified to testify as an expert before?

13 A. Yes, I have.

14 Q. And is that in cases involving either physical or sexual  
15 abuse?

16 A. There have been both.

17 Q. How many times have you been qualified to testify as an  
18 expert?

19 A. In Baltimore City, it is fourteen times. Outside of the  
20 city and other jurisdictions, a dozen times.

21 Q. Have you been qualified in this Court?

22 A. Yes, I have.

23 Q. I want to just focus real quick on the physical -- the  
24 non-genital portion of forensic examinations. Is there  
25 another medical term to describe the physical -- the external

1 part of a forensic exam?

2 A. Well, you're particularly focussing on cutaneous findings  
3 in the head-to-toe general exam.

4 Q. And what does that mean? What does "cutaneous" mean?

5 A. "Cutaneous" means skin.

6 Q. And the training that you described earlier, did that  
7 include training with respect to skin findings?

8 A. Cutaneous skin findings are the most common type of child  
9 abuse findings that are documented. It's a very large area in  
10 all child maltreatment.

11 Q. And what is the protocol or the approach relative to  
12 cutaneous or skin injury when you're examining a patient?

13 A. Typically is to incorporate as part of the whole exam, so  
14 I do head, eyes, ears, nose, throat exam, look at eyes, look  
15 at teeth, look at ears, and -- but palpate, touch and feel for  
16 sore places, lumps, bumps, masses, anything that hurts; the  
17 scalp, neck, throat, listen to the heart, listen to the lungs,  
18 listen to the abdomen, look at --

19 **INTERPRETER GOLDSTEIN:** Your Honor, the interpreters  
20 request that the witness please slow down.

21 **THE COURT:** Yes. Please, Doctor.

22 **MS. YASSER:** I failed to warn you, Doctor, that we  
23 have interpreters here today.

24 **THE WITNESS:** I am sorry. I speak very fast.

25 **INTERPRETER KIRCHGESSNER:** Interpreter would request

1 two minutes to catch up with the last sentences.

2 (Pause.)

3 **INTERPRETER KIRCHGESSNER:** Thank you.

4 **THE WITNESS:** So heart, lungs, abdomen, palpate  
5 those areas, look at the back from top to bottom under a good  
6 light, look at the front abdomen under a good light. It --  
7 usually the skin and the body is done in sections for modesty.  
8 Littler kids don't care as much. The older the patient, the  
9 more you'll do just one section at a time. Front of the legs,  
10 the bottom, and the feet, top of the legs, sometimes rolling  
11 the patient over to see all of the back of the legs, sometimes  
12 having them stand up, or sometimes just lifting them up,  
13 checking the feet and all the way to the bottom of the feet,  
14 and the toes.

15 **BY MS. YASSER:**

16 Q. And, when you discover an injury to the skin, what do you  
17 do?

18 A. I -- I'm looking or palpating for any lesions, any mark  
19 or finding at all on the skin, and that anything I notice, I  
20 would ask, then, the patient, "How did you get this?"

21 Q. And can you draw any conclusions about the possible  
22 source or cause of a skin injury that you find?

23 A. Findings on the skin are all about pattern recognition.  
24 There are birthmarks can look a certain way. Rashes will  
25 appear a certain way. Injuries tend to appear like the -- an

1 object that may have been used against someone. So it's  
2 looking for the type of pattern, how it looks, how it's  
3 healed, and also where it is on the body.

4 Q. Can you also -- can you date findings of skin injury?

5 A. Regular skin that has hair on it, stratified squamous  
6 skin, heals in fairly standard fashion, so superficial  
7 injuries and petechiae will be gone in about 72 hours, and  
8 then deeper tissue takes at least six weeks, but final scars  
9 do not set on regular skin until about six months.

10 Q. And how do you know if a scar is final?

11 A. It's well knit. It's very firm. The color doesn't  
12 change anymore. It tends to have returned to a color more or  
13 less like the rest of the skin.

14 Q. And so, if an injury is healed or well set, the most you  
15 can tell is that it's greater than six months?

16 A. That is correct.

17 Q. Now, is there any distinction between adults and children  
18 when it comes to cutaneous findings?

19 A. Other than the extreme. The very old people have fragile  
20 skin that probably injures more easily, and very young  
21 children are particularly prone for infectious processes or  
22 birthmarks and things that can be mistaken for abuse, so there  
23 are more mimics in children probably than in adults and  
24 adolescents.

25 **MS. YASSER:** Your Honor, I'd like to offer Dr. Baker

1 as an expert in the area of forensic medical examinations,  
2 particularly with respect to cutaneous findings.

3 **THE COURT:** *Voir dire* on qualifications?

4 **MR. RUTER:** *Voir dire*?

5 **THE COURT:** Yes.

6 **MR. RUTER:** Thank you.

7 **VOIR DIRE EXAMINATION**

8 **BY MR. RUTER:**

9 Q. Dr. Baker, good afternoon.

10 A. Good afternoon.

11 Q. Dr. Baker, first of all, are you a member of any child  
12 advocacy groups?

13 A. I'm a member of American Professional Society on the  
14 Abuse of Children, the American Academy of Pediatrics. I'm a  
15 fellow of the American Academy of Pediatrics. I'm a member of  
16 American Academy of Pediatrics' Maryland section, and a member  
17 of the -- the Child Maltreatment Committee in the American  
18 Academy of Pediatrics.

19 Q. And do all of those organizations have essentially the  
20 same mission?

21 A. Advocacy for the health and well-being of adolescents and  
22 children, yes.

23 Q. Okay. I have been given sometime ago your curriculum  
24 vitae by the Government, and I had noted that you have  
25 attended many conferences for continuing educational purposes;

1 is that right?

2 A. Correct.

3 Q. It appears like there could be about 20 of those  
4 throughout the United States; is that also correct?

5 A. Yes, sir.

6 Q. Would it be fair to say that all of those presentations  
7 that you attended dealt with a child abuse of some type?

8 A. Yes, by and large.

9 Q. As an example, the Shaken Baby Symposium?

10 A. Correct.

11 Q. There are several on child abuse and neglect?

12 A. Correct.

13 Q. There is ones on child memory and suggestibility?

14 A. Yes.

15 Q. And we also see from your curriculum vitae that you have  
16 given numerous presentations, to your credit, and it looks  
17 like maybe 30 or 40?

18 A. Yes.

19 Q. And, as I review those, they're all identified by a title  
20 of some type; is that accurate?

21 A. Yes.

22 Q. Your presentation?

23 And, once again, those appear to be child sexual  
24 abuse related. Would that be a fair statement?

25 A. By and large, yes.

1 Q. Okay. And, as I am looking through those, I'm not sure  
2 if you have your CV with you, Doctor?

3 A. Not in front of me.

4 Q. But I'm sure you have a good memory?

5 A. Reasonably.

6 Q. And I'm looking for some that are not related to sexual  
7 child abuse in your CV.

8 A. The most recent Governor's conference in Annapolis, I did  
9 a presentation on physical abuse findings.

10 Q. And is that shown here on your CV?

11 A. I don't know if it made it on that one. That would have  
12 been this past fall, for example.

13 Q. Okay. All right. So we understand that, when you do a  
14 physical exam, that one thing you're looking for is some kind  
15 of injury to the skin?

16 A. Yes.

17 Q. And we also understand that the best that you can do as  
18 far as dating an injury would be to the certainty of six  
19 months, because that's when scarring comes to a final -- I'll  
20 call it a resting place, which I'm sure is not a very medical  
21 term, but is that a fair statement?

22 A. Correct.

23 Q. Would it also be a fair statement to say that, if you  
24 were to see any kind of a skin injury that has, in your  
25 opinion, come to its final resting place -- it's done



1 changing -- that that injury may be as young as six months, or  
2 it could be as old as three years, five years?

3 A. True to almost a patient's entire life.

4 Q. Okay. And would it also be true, then, in order for you  
5 to make a diagnosis as to what the cause of that injury would  
6 be, that the person reporting the injury would play a role in  
7 you making your diagnosis; is that correct?

8 A. Traditionally, 90% of all medical diagnosis is made by  
9 the history.

10 Q. Okay. And, in the case of a very, very young child, as  
11 an example -- let's take a hypothetical of a three-year-old as  
12 an example. Would it be fair to say that that child may not  
13 be a very good historian to help you figure out how that child  
14 received some kind of a cutaneous mark on his or her skin?

15 A. Correct.

16 Q. And, on the other hand, if you were examining a 25-year-  
17 old, that person, presumably of reasonable intelligence, could  
18 be able to historically advise you where they thought the mark  
19 had come from; is that also accurate?

20 A. Yes.

21 Q. And can you tell the jury, if you're able to quantify it,  
22 what percentage of your findings would come as a result of an  
23 adult's historical analysis or indication to you where a mark  
24 came from versus your simple -- I don't want to call it  
25 simple -- your evaluation of the skin itself without any input

1       whatsoever from that person?

2       A.    I would estimate it runs about 50-50 in that there is a  
3       number of marks that speak for themselves or rashes or skin  
4       conditions and findings that I will be the one who tells the  
5       parent what the child has based on how it looks.

6       Q.    And, taking that to the adult, though -- in this case,  
7       we're talking about an adult, right?

8       A.    Correct.

9       Q.    That's the subject?

10               In terms of adults, can you quantify what percentage  
11       of your findings are found by you as a result of the  
12       examination alone versus an examination and a discussion with  
13       the subject of your examination?

14       A.    So it's those marks that are not diagnostic in and of  
15       themselves that I need a history for, for me to tell and make  
16       a diagnosis, to put it together.  So, for the more vague or  
17       irregular marks, then it's the majority of them I need a  
18       history for, but some marks are fairly distinct and I can tell  
19       what's happened, and they'll just tell me -- they'll fill in  
20       the details for me what I already know really.

21       Q.    Okay.  And, without going into any detail, in this  
22       particular examination, how do you quantify what you're able  
23       to see?  Did you figure it out by looking, or do you have to  
24       figure it out by looking and speaking with the person that you  
25       examine?

1 A. For this specific exam?

2 Q. Yes.

3 A. For this patient, there were four marks. One was clearly  
4 diagnostic in and of itself, and the other three, I needed  
5 some level of history to figure out what they were.

6 Q. Okay. And, of this type, you've made approximately 3,000  
7 type examinations, you're telling us?

8 A. For forensic --

9 Q. Of the type that you made in this case?

10 A. Specify the type for me.

11 Q. Well, you're the one that did the evaluation in this  
12 case.

13 A. Correct.

14 Q. And my question is: How many of the 3,000 physical exams  
15 that you made were similar to the cutaneous type that you  
16 looked at in this case?

17 A. Well, they would all be -- every patient --

18 Q. Every one?

19 A. -- look at them and ask for what marks are. Some people  
20 have no marks, and some kids have lots of vague marks, and  
21 some people -- some children are sent specifically for me to  
22 look at their skin only, and some are part of a child sexual  
23 abuse evaluation as well.

24 Q. Okay.

25 **MR. RUTER:** No further questions, Your Honor.

1           **THE COURT:** Do you wish to be heard?

2           **MR. RUTER:** If I could, if we could approach.

3           **THE COURT:** Let me ask first: Mr. Montemarano, do  
4 you have questions on *voir dire*?

5           **MR. MONTEMARANO:** The Court's indulgence.

6           **MR. RUTER:** One other question, Your Honor, if I  
7 could.

8           **BY MR. RUTER:**

9           Q. Of the 3,000 examinations that you've estimated, how many  
10 of those are of children versus adults?

11          A. The large majority are children. I would probably have,  
12 adults over 18, maybe about 20.

13          Q. Okay. So, of the 3,000, you've had 20 adults, and you've  
14 had 2,980 children?

15          A. Yeah. Well more than that probably.

16          Q. Yes, ma'am. Thank you.

17           **MR. RUTER:** If I could be heard, Your Honor. If I  
18 could approach.

19           **MR. MONTEMARANO:** No questions on behalf of  
20 Mr. Fuertes.

21           **THE COURT:** Okay. Come up.

22           (Whereupon, the following discussion occurred at the  
23 bench.)

24           **THE COURT:** Yes, sir?

25           **MR. RUTER:** Your Honor, I would suggest that this

1 witness would not be qualified to give an opinion about the  
2 origin of the injuries as she looked at in this case, given  
3 the fact that she's only examined, out of over 3,000, perhaps  
4 20 adults. Obviously we don't know the real circumstances of  
5 the other 19 or so. That's number one.

6 Number two, Your Honor, although the Court hasn't  
7 seen it, I have seen the report of Dr. Baker, and it appears  
8 as if she did not make a diagnosis at all. That's the way  
9 that I read the report. She indicated that she examined four  
10 marks on the -- the person we're talking about, of course,  
11 Your Honor, happens to be Rebeca Dueñas Franco, and it's my  
12 recollection that the report indicated that the marks were  
13 consistent with what Ms. Franco told her was the origin of the  
14 injuries, and I don't -- if I'm correct in saying it, I don't  
15 believe that's a diagnosis. It's simply a regurgitation of  
16 what the person who she examined told her.

17 **MS. YASSER:** And that's what we would actually be  
18 asking her to testify to, Your Honor. With respect to the  
19 second objection, it's just were they -- was what you were  
20 told about the source of the injury consistent with what you  
21 saw? That's essentially the final question we're asking  
22 about.

23 **THE COURT:** You get the last word.

24 **MS. YASSER:** Your Honor, can I just address the  
25 first objection?

1           **THE COURT:** Sure.

2           **MS. YASSER:** I think Dr. Baker testified that there  
3 is -- in all her patients, children or adults, she does a full  
4 cutaneous examination, and that there is no distinction  
5 between somebody of, you know, in Ms. Dueñas' age range and  
6 the adolescents that she examines, of which the large majority  
7 of her examinations are. It's only the old, the very old, and  
8 the very young that have distinguishing factors when it comes  
9 to cutaneous findings.

10           **MR. MONTEMARANO:** I would submit, Your Honor, what  
11 this witness therefore ends up needing to do, if the  
12 Government's desire to put her on in the way that Ms. Yasser  
13 agrees she's going to, she ends up saying this other witness  
14 has told you the truth. It's impermissible vouching for  
15 another witness' testimony by saying, "She told me this, and  
16 it's true."

17           **MR. RUTER:** And, Your Honor, in that regard, I would  
18 cite *U.S. versus Benally* -- it's 541 F.3d at Page 990 -- and  
19 also *U.S. versus Whitted*, W-H-I-T-T-E-D, 11 F.3d at Page 782,  
20 and I believe those two cases stand for the very proposition  
21 that Mr. Montemarano just indicated, Your Honor, which is an  
22 expert should not be permitted to simply give an opinion as to  
23 the truthfulness or the untruthfulness of what a third party  
24 has told them. That's confusing to a jury and not helpful at  
25 all to them in the ultimate issues.

1           **MS. YASSER:** And, again, maybe I was unclear, but my  
2           question would be: Is what you observed, Dr. Baker,  
3           consistent with the whip of a belt, or is it consistent with a  
4           knife? It's not what she -- and I may have misspoke, and I  
5           apologize. Not is it consistent with what she told you  
6           happened, but is it consistent with what we know that the  
7           injury was testified to occurring.

8           **MR. RUTER:** That's the same thing, Your Honor.

9           **MR. MONTEMARANO:** That's exactly it: "She said,  
10          'it's belt.' Does it look like a belt to you?"

11          **MR. RUTER:** Is it a knife? Does it appear to be a  
12          knife to you.

13          **MR. MONTEMARANO:** Was she telling the truth when she  
14          told us it was a belt.

15          **THE COURT:** It seems like, in this case, there will  
16          be testimony relating to a doctor's medical findings. The  
17          objections, I think, go more to weight than admissibility, so  
18          I will permit her to testify as an expert.

19          **MR. RUTER:** Your Honor?

20          **THE COURT:** Yes?

21          **MR. RUTER:** This may be premature, but would the  
22          Court entertain my having Ms. Franco recalled given the fact  
23          that she had testified, Your Honor, that she had been  
24          forcefully raped and that where we left it was she was on  
25          her -- she was hiking up a road with this man who raped her,

1 and where I was going, Your Honor, I would hope everybody  
2 would realize, is I wanted to know whether or not she had been  
3 pushed to the ground. I wanted to know whether or not she had  
4 been struck with an object, which would also be perhaps very  
5 important to whether or not this jury is going to believe this  
6 doctor and Ms. Franco, or whether they're going to believe a  
7 third-party agent may have been the cause of those injuries.

8 **THE COURT:** I'll permit you to recall her.

9 **MR. RUTER:** Thank you, sir.

10 **THE COURT:** You'll have her availability.

11 **MR. RUTER:** Thank you, Judge.

12 **MR. MONTEMARANO:** Your Honor, since it's 4 o'clock,  
13 can we take the afternoon break now?

14 **THE COURT:** They had a two-and-a-half-hour lunch.  
15 No. We go forward.

16 (Whereupon, the bench conference was concluded.)

17 **THE COURT:** Members of the jury, Dr. Baker is  
18 qualified as an expert in forensic medical exams, particularly  
19 with respect to cutaneous skin findings, and may so testify.

20 Now, generally we don't permit a witness to talk  
21 about the witness' opinions or to testify about opinions. We  
22 make an exception for witnesses who are experts, people who,  
23 by virtue of education, training, or skills in a particular  
24 area have opinions that may be of value to you. You consider  
25 an expert's opinion together with all of the other evidence in



1 the case. You give those opinions the weight and value you  
2 believe it should have. She is an expert and may testify as  
3 such.

4 **MS. YASSER:** Thank you, Your Honor.

5 **DIRECT EXAMINATION (CONT.)**

6 **BY MS. YASSER:**

7 Q. Dr. Baker, I want to direct your attention to  
8 November 17th of 2011. Did you examine a patient named  
9 Esmirna Rebeca Dueñas Franco on that day?

10 A. Yes, I did.

11 Q. Did you perform a forensic medical evaluation of that  
12 patient?

13 A. Yes, I did.

14 Q. Do you remember why she was brought to you?

15 A. She was brought because she was definitely outside the  
16 five-day time limit to go to the emergency room or a typical  
17 rape crisis center, and because there were some findings that  
18 they had wanted documented, and also, because she had not been  
19 feeling well and does not have regular medical care, other  
20 places to go.

21 Q. And did you conduct a full forensic medical examination  
22 that included both the sexual and a physical examination?

23 A. Yes, I did.

24 Q. And did you issue a report of that examination?

25 A. Yes, I did.

1 Q. Is it protocol to do so?

2 A. Yes, it is.

3 Q. Okay. Can you walk the ladies and gentlemen of the jury  
4 through the examination that you performed, just broadly  
5 speaking, that day?

6 A. Typically, when my patient first comes, I will go over a  
7 medical history, background, medical information, particularly  
8 focussed on skin issues or skin problems and GI and GU --  
9 gastrointestinal or gastro-anal issues because of the  
10 confounding overlap with potential abuse. I go through the  
11 medical history. Then I go through that head-to-toe physical  
12 exam. Anything that looks significant, I will take photos.  
13 The last thing is the genital exam, which is documented with  
14 photos if it's going to be forensically important, and then  
15 lastly are any cultures that might be indicated, or other  
16 tests.

17 Q. And, in the patient history section of your examination,  
18 did the patient report anything with respect to genital  
19 injury?

20 A. It would help to have a copy of my report.

21 **MS. YASSER:** May I approach the witness, Your Honor?

22 **THE COURT:** Yes.

23 **MS. YASSER:** This is 39a, Your Honor.

24 **THE WITNESS:** Historically, she did not report for  
25 me discharge, constipation, or diarrhea. It was explained to

1 me she had been removed from a place of prostitution and had  
2 already been pregnant with a second child and had a normal  
3 delivery, and that currently she was having a lot of cramping,  
4 both during her menstruation and afterwards ever since the  
5 delivery. She was unsure if it was related to trauma, being  
6 hit at the time, and that mainly it was suprapubic, just above  
7 the pubic bone, low in the abdomen, was so bad at times it  
8 would make her suddenly sit down, and she couldn't really  
9 characterize it well. It would start. It would stop. It  
10 lasted one to three days at a time, and sometimes Motrin did  
11 help it.

12 **BY MS. YASSER:**

13 Q. And did the patient report anything with respect to  
14 genital injury, infection, or pain?

15 A. Oh, yes, and she had reported a history of having small  
16 blisters off and on that would be so bad that at times she was  
17 told not to see clients.

18 Q. And did that sound like anything to you, or were you able  
19 to diagnose that based on the history or any STD testing that  
20 may have been performed that day?

21 A. It sounds very suspicious of herpes, genital infection,  
22 but you need to really be able to see it at the time and get a  
23 culture to be certain.

24 Q. And was it not active at the time?

25 A. It was not active at that time.

1 Q. Was STD testing performed on that day?

2 A. Yes, it was, through blood tests and urine, DNA testing,  
3 and checked a wet print as well.

4 Q. And what were the results?

5 A. And all of those were negative.

6 Q. With respect to the examination of this individual, did  
7 you note any injury to her body or to her skin?

8 A. Yes. On the cutaneous exam, I noted four different areas  
9 that I took photos. She also had a birthmark, a café-au-lait  
10 birthmark on her abdomen.

11 Q. And I want to -- well, let me ask you this: Did you  
12 observe each of these injuries -- these four injuries with  
13 your own eyes?

14 A. Yes. I could see each of them.

15 Q. And you said -- mentioned that you also would feel --  
16 feel for injury. Could you feel some of these injuries as  
17 well?

18 A. Yes. Three of them, I could definitely feel, raise up  
19 from the skin. They were distinctly palpable.

20 Q. And you mentioned, Dr. Baker, that you took photographs  
21 of the injuries; is that correct?

22 A. Correct.

23 Q. And have you reviewed those photographs?

24 A. Yes, I have.

25 Q. Before -- prior to your testimony?

1 A. Yes.

2 Q. The injury depicted in the photographs, was it more or  
3 less clear to you with the naked eye than it is in the  
4 photographs?

5 A. Frequently photos don't do justice, particularly to a  
6 well-healed injury or if you have very dark skin, but they  
7 were easily noticeable, and that's why I would have  
8 photographed them.

9 Q. And is your testimony today based on your physical, your  
10 own observation of those injuries?

11 A. Correct.

12 Q. I want to talk to you about the injuries you observed,  
13 and I want to go through them, starting with an injury that  
14 you noted -- and, actually, let me have you do this,

15 Dr. Baker. I apologize. Can you just explain to the ladies  
16 and gentlemen of the jury where you noted injury on the body.

17 A. There was a small, thin linear, line-like mark just below  
18 the ankle on the left foot; a small scar on the upper left  
19 thigh; a bigger scar by the left hip; and a distinct scar on  
20 the left elbow.

21 Q. Let's go ahead and start with the elbow. Can you  
22 describe more particularly the injury that you noted.

23 A. I have it described as a classic stellate mark to the --  
24 sorry -- right elbow. So the "stellate" means star-shaped.  
25 It sort of starts at a central point and goes outward over a

1 boney prominence where your elbow sticks out like that. When  
2 you land on hard surfaces, that is often what you see.

3 Q. And was that injury palpable?

4 A. Yes, it was.

5 Q. Could you tell anything about the age of injury?

6 A. It's more than six months old.

7 Q. So does that mean it was set, or healed?

8 A. It seemed to be completely healed.

9 Q. Now, can you tell anything from your observations about  
10 whether this injury could be accidental or whether the -- a  
11 patient could have been pushed down?

12 A. I did specifically ask that. Well, no. I have the  
13 history. So I would have asked -- I'm sorry -- what happened,  
14 and the history I got was that patient was pushed onto the  
15 ground with rocks.

16 Q. And was that patient history or description consistent  
17 with what you observed?

18 A. Yes, it is.

19 Q. And was it also consistent with the reported timing of  
20 the event?

21 A. Yes. I believe all of these -- I don't speak of them  
22 each separately. As I recall, all of them were considered to  
23 be well past six months of age, and, after that, I didn't ask  
24 details about when they had happened.

25 Q. Now, moving to the thigh -- actually, before I do,

1 Dr. Baker, let me show you what's been previously marked as  
2 Government's 39a/2b. And I apologize. I'm not sure how well  
3 this is going to translate on the ELMO. Let's see.

4 In looking at this photograph, can you see the  
5 photographs that you took of the injury to Ms. Dueñas' elbow?

6 A. Yes, I do.

7 Q. Which photographs are those?

8 A. They are Number 7 and Number 8.

9 Q. Those are the bottom two photographs?

10 A. Correct.

11 Q. Can you just point -- and you can actually circle using  
12 your finger -- where this stellate injury or stellate mark  
13 that you described is?

14 A. Yes. The picture is slightly further away shows that --  
15 ah. Around here, and actually went up and took a slightly  
16 closer one. You kind of get the view of how it has arms or is  
17 star-shaped for that stellate lesion.

18 Q. Thank you, Dr. Baker. That's actually printed on photo  
19 paper. I don't know if that -- is that a better or worse  
20 image for you, Doctor?

21 A. That seems about the same for the bottom. I think it's a  
22 little better for the upper two, 5 and 6.

23 Q. And what do the photographs in 5 and 6 refer to? Which  
24 injury is that?

25 A. That would be the scar on the left hip.

1 Q. And was that injury palpable to you?

2 A. Yes, it was. It was raised and thickened in the center.

3 Q. And could you tell how old that injury was?

4 A. It's definitely older than six months.

5 Q. And what did you do after observing that injury?

6 A. When I saw it and could feel it, I asked the patient how  
7 she got it, and the answer was from the car door.

8 Q. And was that consistent with what you observed by your  
9 own eyes?

10 A. Yes. It's a pretty good implement to give me this  
11 somewhat linear, so sort of line-shaped, but not sharp and  
12 thin and smooth. With a closer view, you see it sort of  
13 thickened in the middle. So something line-shaped, but not  
14 real sharp like a piece of glass, say.

15 Q. I want to direct your attention to the next injury that  
16 you noted, which I believe was to the patient's thigh. Can  
17 you describe what you observed on the patient's thigh.

18 A. Yes. There is a small, rather irregular mark to the  
19 front part -- the anterior left thigh. When I asked the  
20 patient what that was, she said it was the tip of a belt.

21 Q. And was that injury palpable? In other words, could you  
22 feel it? Was it raised?

23 A. That one was not raised.

24 Q. And how old did that injury appear to you?

25 A. It would be older than six months.



1 Q. And, as noted above, did you -- did you, as protocol, ask  
2 the patient what happened when you observed that injury?

3 A. Yes, and she said it was from the tip of a belt.

4 Q. And was the patient's reported history consistent with  
5 what you observed?

6 A. Yes, it could be.

7 Q. And why is that?

8 A. It's a -- it's a small injury on an outer aspect, but up  
9 along your thigh, where you don't tend to bump into things --  
10 your shins, the elbows, the wrists, we kind of -- shins down  
11 to your ankles, we kind of call those no-man's land. Kids, in  
12 particular, bang them up; active people, all the time. But,  
13 closer to your trunk, the less accidental injuries we tend to  
14 get. So it was a little more suspicious, higher up on a more  
15 covered part of the body, and it's just a small edge, a small  
16 noticeable scar there, so I -- it would be consistent with the  
17 edge of something -- the tip of something, something small.

18 Q. And I want to show you what's been previously marked as  
19 Government Exhibit 39a/2A, and referring to the bottom two  
20 pictures, and, again, I'm not -- I'm not sure how well this is  
21 translating on the screen, but can you please circle the  
22 injury that you noted to the patient's upper, inner thigh  
23 area.

24 A. It's the line right through here. That's probably the  
25 best on that photo, pick it up.

1 Q. And, Dr. Baker, did you observe another injury -- a  
2 fourth injury to this particular patient on that day?

3 A. Yes. And there was a clear, sharp, linear, well-healed  
4 line just below the left inner ankle.

5 Q. And could you feel that injury?

6 A. Yes. That one was palpable and raised.

7 Q. Was that a well-set or a healed injury as well?

8 A. Yes. It was completely healed.

9 Q. And, from your own observations, could you tell anything  
10 about the source of the injury?

11 A. Well, this one is such a nice, thin, healed-up line.  
12 It's not quite surgical. Surgeons usually leave their little  
13 suture lines behind in dots, so it's something very thin and  
14 very sharp would cut that. If you had said glass, I wouldn't  
15 be surprised. A very thin, jagged, smooth edge of a piece of  
16 metal, something like that.

17 Q. Like a knife?

18 A. Like a knife.

19 Q. And, when you observed this injury, did you ask the  
20 patient what had happened?

21 A. Yes.

22 Q. And do you recall what she said the source of that injury  
23 was?

24 A. Yeah. And she said it was from a knife cut.

25 Q. And was that consistent with your own observations?

1 A. Yes, it is.

2 MS. YASSER: No further questions, Your Honor.

3 THE COURT: Mr. Ruter, will you cross?

4 MR. RUTER: Yes. Could I?

5 THE COURT: About how long?

6 MR. RUTER: No more than ten minutes.

7 THE COURT: Okay.

8 **CROSS-EXAMINATION**

9 **BY MR. RUTER:**

10 Q. Dr. Baker, when the person that you evaluated came to  
11 your office, was she in the company of anyone?

12 A. Yes. They brought two potential translators for me.

13 Q. Were there any police officers with the translator?

14 A. One was an Immigration & Customs Enforcement agent.

15 Q. Okay. Do you know why that person was there?

16 A. Because the -- Ms. Dueñas is in the custody or working  
17 with Immigration.

18 Q. Okay. The first injury, at least the point that my notes  
19 indicate, is this injury below the ankle, which you just  
20 testified to. And you saw it -- did you see it before you  
21 were told by Ms. Franco that it existed?

22 A. Yeah. Typically I look at the patient's body, find  
23 things, and then ask how they got it.

24 Q. Okay. Before the examination came in, what was your  
25 understanding as to why it was that she was being presented to

1     you?

2     A.    That we were concerned that there were some bodily  
3     injuries that could be documented potentially.

4     Q.    Okay.  And bodily injuries that were not self-sustained?

5     A.    Presumably.

6     Q.    Okay.  Well, when you say "presumably," what were you  
7     told?

8     A.    That she had been removed from a human-trafficking  
9     condition, and had some injuries that needed to be  
10    documented --

11    Q.    All right.  And --

12    A.    -- and --

13    Q.    -- you were told that it was the belief of whoever it was  
14    that presented her that these injuries resulted from her being  
15    involved in the sex-trafficking industry; is that not correct?

16    A.    I'm not actually quite sure about that, in that I wasn't  
17    anticipating finding petechiae or bleeding or a break in the  
18    hymen that would be from sexual contact.  These were supposed  
19    to be more physical abuse trauma.

20    Q.    Yes.  As a result of her being involved in sex  
21    trafficking?

22    A.    Possibly connected to that, yes.

23    Q.    All right.  So, when you saw the ankle injury, you saw  
24    that it, in fact, was not normal, and it was indeed some kind  
25    of an injury.

1 A. Yes.

2 Q. And, when you saw the injury, without anybody telling you  
3 what they believed the source of the injury was, did you have  
4 a professional opinion about what the source of the injury  
5 was?

6 A. Yes. It's a classic cut -- linear cut from something  
7 sharp.

8 Q. Okay. And would you agree that's something that probably  
9 most of us here would look at and say, "It looks like a scar  
10 to me --"

11 A. Yes.

12 Q. "-- from a cut"? Okay.

13 As to that cut, did you form a professional opinion  
14 before speaking with her as to what the source of the cut was?

15 A. It's in an odd location under the ankle bone there, and I  
16 wasn't sure if there was a fall or an old -- a fall onto  
17 something sharp perhaps, or how she had gotten it until I  
18 asked.

19 Q. Okay. And, therefore, it's fair to say that, prior to  
20 you having a conversation with the person you examined, you  
21 had no professional opinion as to the source of the cut?

22 A. Well, I'd have some. It was some -- clearly some sharp  
23 object.

24 Q. Yeah. Did you have a professional opinion on whether or  
25 not the cut was caused by her or caused by a third party?

1 A. It's not a typical spot for a self cutter. It would be  
2 unusual.

3 Q. Okay. Would you agree with me that it's the kind of a  
4 cut, from what the pictures show, that a person could be  
5 walking and literally come across a sharp piece of metal, as  
6 an example, low to the ground, and, in their normal gait, in  
7 their normal gait, that sharp object protruding from the  
8 ground or from the sidewalk, from a tree, from anything, may  
9 have caused such an injury?

10 A. It's possible, although, when you catch something as  
11 you're walking or moving past it, you tend to get thickening  
12 as it pulls the skin as you go by, so it tends to have more of  
13 an arrow shape to it. This was really straight across, so I  
14 would buy more a fall onto a sharp object.

15 Q. So, after you were told by Ms. Franco that it was a  
16 knife, did you then form an opinion -- a professional medical  
17 opinion about the source of the cut?

18 A. Yes. So --

19 Q. And what was that?

20 A. -- appearance of the lesion along with the history led me  
21 to the opinion that it was an inflicted wound from a knife.

22 Q. Okay. And, therefore, what caused you to reach the  
23 conclusion was what you were told by Ms. Franco?

24 A. In addition to the finding, yes.

25 Q. If Ms. Franco had not told you that it was a knife, would

1     you have had a professional opinion that it was a knife; yes  
2     or no?

3     A.   Not necessarily.

4     Q.   So the answer is, "No;" is that right?  The answer is,  
5     "No"?

6     A.   It -- well, I wouldn't exclude a knife, so it's not  
7     completely "yes" or "no."

8     Q.   Okay.  And we then move to the scar on the left -- on the  
9     hip area.  Were there photographs taken of that?

10    A.   Yes.

11    Q.   Okay.  Would it be fair to say that, if you were a  
12    layperson like me, you may not -- with the photographs we saw,  
13    that you may not even know what part of the body you'd be  
14    looking at?

15    A.   True.

16    Q.   Because I couldn't tell.  Does that sound reasonable?

17    A.   True.

18    Q.   Okay.  And, as to the left scar, when you saw it, before  
19    having any conversations with Ms. Franco, had you formed a  
20    professional medical opinion as to what caused the scar?

21    A.   You're talking about the one on the hip, or the thigh?

22    Q.   Well, let's -- we'll go with the hip, since I'm looking  
23    at my notes here.

24    A.   Okay.  No, I did not know what object that was.  I was  
25    actually rather curious.

1 Q. Okay. And, before speaking with Ms. Franco, did you have  
2 any opinion at all about how that injury may have occurred, or  
3 what may have come in contact with the hip to have caused the  
4 injury?

5 A. Its appearance means it's something that was sort of  
6 straight-edged, but not real thin, possibly a fall onto the  
7 edge of a bedstead, edge of a piece of furniture, something  
8 like that, but where it hits your hip.

9 Q. Okay. And you asked her about that --

10 A. Yes.

11 Q. -- particular injury?

12 And what did she say?

13 A. And she said it was the car door.

14 Q. A car door.

15 Did she indicate how it was that the car door came  
16 into contact with her hip?

17 A. No, she did not.

18 Q. And, as to the injury to her thigh, you had a  
19 professional opinion before speaking with her that it was some  
20 kind of injury?

21 A. Yes.

22 Q. Okay. And it was some kind of injury where you thought  
23 that an object which had some kind of a point but not a -- not  
24 like a knife point; is that accurate?

25 A. Yeah, not super sharp. It's the most vague of all of the



1 findings. It's not --

2 Q. Yes.

3 A. -- raised and palpable, so I definitely needed history to  
4 decide what it was.

5 Q. But you saw that before she pointed it out to you?

6 A. But, yes, I could see it.

7 Q. Okay. And then she indicated to you that was as a result  
8 of a belt?

9 A. The tip of a belt.

10 Q. And she said the tip of a belt?

11 A. Yes.

12 Q. And what do you understand that to mean? There is two  
13 tips. We agree with that, right?

14 A. Right, so I'm not sure if just the -- the tongue -- no.  
15 The very tip of one metal edge just would have lightly got  
16 that area, or if we're talking about the other ends where the  
17 holes are, the tip of the leather -- the leather side of it.  
18 I'm not sure.

19 Q. And, Doctor, if you can tell us: In your professional  
20 opinion, at what angle or how the belt would have hit her to  
21 have caused that kind of an injury?

22 A. Flipped out where just the tip of it caught her.

23 Q. And just the tip of it. You mean going laterally across  
24 her leg, or actually striking her into her leg?

25 A. No. Kind of just flicked across, as a belt being flung

1 about.

2 Q. Just across it?

3 A. Yes.

4 Q. All right. And then the last injury was the elbow?

5 A. Correct.

6 Q. And you noted, without her indicating, that you saw it  
7 yourself?

8 A. Oh, yes.

9 Q. And you could not form a professional opinion as to what  
10 had happened; you just knew it was an injury; is that right?

11 A. Correct.

12 Q. And you then told us that she told you that she had been  
13 pushed down, and she landed on her elbow; is that right?

14 A. Correct.

15 Q. Okay. Do we also understand that, had she not told you  
16 that, that, in your professional view, it's just as likely  
17 that she could have slipped and fallen down rather than being  
18 pushed and fallen down; is that accurate?

19 A. It's possible.

20 Q. You'd get the same injury; is that right?

21 A. Yes. You need the history, too.

22 Q. And then, lastly, you don't know whether or not these  
23 injuries occurred -- this exam was November of 2011, right?

24 A. Correct.

25 Q. So do we understand that the injuries could have occurred

1 as early perhaps as the beginning part of 2011?

2 A. Yes.

3 Q. And -- or they could have occurred as early as --

4 A. Years before.

5 Q. -- 2000, 2001 --

6 A. Yes.

7 Q. -- 2002? Okay. Good.

8 MR. RUTER: All right. Thank you very much.

9 THE COURT: Mr. Montemarano?

10 MR. MONTEMARANO: No questions, Your Honor. Thank  
11 you.

12 THE COURT: Redirect?

13 MS. YASSER: Just very briefly, Your Honor.

14 **REDIRECT EXAMINATION**

15 **BY MS. YASSER:**

16 Q. Dr. Baker, in referring to your report, do you recall a  
17 reference about who came in with this patient in November of  
18 2011? And can you just, in reference to your report, on  
19 Page 1, tell me the names of those two women that came in. I  
20 guess --

21 A. I had Susan Ritter, who is the victim coordinator, I  
22 know, and Cindy -- I pronounce Cindy translator. I don't even  
23 recall her last name, but I know she was an ICE agent.

24 Q. She was a translator for ICE?

25 A. There we go?

1 Q. All right. Now, with respect to your findings,  
2 Dr. Baker, obviously you can't tell this jury anything about  
3 who caused the injuries to this particular patient; is that  
4 correct?

5 A. Correct.

6 Q. But, in your professional opinion, from what you  
7 observed, were the injuries consistent -- were the injuries  
8 you observed consistent with the patient's reported history?

9 A. Yes, they were.

10 **MS. YASSER:** No questions, Your Honor.

11 **MR. RUTER:** No questions. Thank you.

12 **THE COURT:** Thank you. You are excused, Doctor.

13 **THE WITNESS:** Thank you.

14 (Witness excused.)

15 **THE COURT:** Members of the jury, we're going to take  
16 the late-afternoon break now. Please remember: Don't discuss  
17 the case among yourselves or with anyone else. I will call  
18 for you at five minutes before 5:00, 4:55.

19 **THE CLERK:** All rise. This Honorable Court stands  
20 in recess.

21 (Jury excused.)

22 **THE COURT:** One more?

23 **MS. YASSER:** Yes, Your Honor. We are on our final  
24 witness, Special Agent Ed Kelly.

25 **THE COURT:** How long?

1           **MS. YASSER:** Your Honor, I would have to estimate  
2           it's going to be more than an hour.

3           **THE COURT:** Okay.

4           **MR. RUTER:** Your Honor, when might we hear from  
5           Ms. Franco? I was not planning on calling her back in my  
6           case. I thought we would just call her back in the  
7           Government's case.

8           **THE COURT:** We have her available tomorrow?

9           **MS. YASSER:** Your Honor, I haven't had a chance to  
10          look at the rule since we last discussed it. My recollection  
11          is that there is a required hearing outside the presence of  
12          the jury before we can get into a victim's prior sexual  
13          history, specific instances of her prior sexual history --

14          **THE COURT:** Is this prior sexual history, or just  
15          prior injuries? I didn't hear them say they were going into  
16          prior sexual history.

17          **MS. YASSER:** Well, I wasn't sure how far along that  
18          line of questioning. They are eliciting questions about a  
19          rape, a sexual assault, and, you know, if Mr. Ruter's  
20          questions are simply, "Were you ever pushed down upon the  
21          ground during a sexual assault," then, you know, I would  
22          almost be willing to just give the victim a call and have a  
23          stipulation as to a certain question or two as regards to the  
24          specific questions that he has.

25          **THE COURT:** Well, talk to each other. I'll see you.

1           **MS. YASSER:** Okay. Thank you, Your Honor.

2           **MR. RUTER:** Thank you.

3           **THE CLERK:** This Honorable Court stands in recess.

4           (Recess taken, 4:31 p.m. - 4:54 p.m.)

5           **THE CLERK:** All rise. This Honorable Court now  
6 resumes in session.

7           **THE COURT:** Ready for the jury, counsel?

8           **MR. RUTER:** Yes, Your Honor.

9           **MS. YASSER:** Yes, Your Honor.

10          **MR. MONTEMARANO:** Yes, Your Honor.

11          **MR. RUTER:** Your Honor, 11:00 a.m. tomorrow morning?

12          **THE COURT:** Thank you.

13          **MR. RUTER:** If I didn't, Belinda was going to do it  
14 for me. If I didn't, Belinda was going to do it.

15          **THE CLERK:** I said, "12 o'clock."

16          **MR. RUTER:** She actually said, "12 o'clock."  
17 I said, "I don't think so."

18          **THE COURT:** Marshals, we'll still need people here  
19 at 9:30.

20          (Jury enters.)

21          **THE COURT:** Please be seated.

22          **MS. YASSER:** May I call the witness, Your Honor?

23          **THE COURT:** Yes, please.

24          **MS. YASSER:** The United States calls Special  
25 Agent Ed Kelly.

1           **THE CLERK:** Raise your right hand.

2                           **EDWARD J. KELLY**

3                           **WAS THEN DULY SWORN TO TELL THE TRUTH**

4           **THE CLERK:** Be seated. You can scoot up and speak  
5 directly toward the mic. State your name, and then spell it  
6 for the record, please.

7           **THE WITNESS:** Edward J. Kelly, E-D-W-A-R-D,  
8 K-E-L-L-Y.

9                           **DIRECT EXAMINATION**

10           **BY MS. YASSER:**

11           Q. Special Agent Kelly, where do you work, sir?

12           A. Homeland Security Investigations, Baltimore, Maryland.

13           Q. Is that commonly known as HSI?

14           A. Yes, ma'am.

15           Q. How long have you been with HSI?

16           A. Since 2003, when it was created.

17           Q. And where did you work before 2003?

18           A. I was an INS special agent.

19           Q. How long have you been with Immigration?

20           A. Since 1997, when I came on as a Border Patrol agent.

21           Q. And where were you a Border Patrol agent?

22           A. South Texas, ma'am.

23           Q. And what did you do in South Texas as a Border Patrol  
24 agent?

25           A. Patrolled the border between the points of entry, north

1 of the ports of entry, the highways south of the checkpoints.

2 **THE REPORTER:** I'm sorry. At points of entry?

3 **THE WITNESS:** Points of entry, yes. And we  
4 patrolled the interior between the ports of entry and the  
5 checkpoint north of us, the Harlingen Station.

6 **THE REPORTER:** I'm sorry. The what station?

7 **THE WITNESS:** Harlingen, H-A-R-L-I-N-G-E-N.

8 **BY MS. YASSER:**

9 Q. How long were you a Border Patrol agent in South Texas?

10 A. Approximately three and a half years.

11 Q. And then you joined -- where did you go after that, I  
12 should ask?

13 A. I transferred to the Philadelphia District Investigations  
14 for INS as an Immigration Enforcement Agent, Allenwood,  
15 Pennsylvania, an institutional hearing program.

16 Q. And what did you do as an enforcement agent?

17 A. We processed federal prisoners that were in the custody  
18 of the Bureau of Prisons for Immigration proceedings so, when  
19 they finished doing their criminal time, they would be  
20 processed more quickly to be removed from the United States at  
21 the appropriate -- if appropriate.

22 Q. When did you become a special agent with HSI?

23 A. 2002.

24 Q. Okay. And what unit are you currently a part of?

25 A. I'm with human trafficking, human smuggling, and worksite



1 enforcement.

2 Q. How long have you been doing human trafficking, human  
3 smuggling, and worksite enforcement cases?

4 A. I started investigating human trafficking approximately  
5 2005.

6 Q. And what are your job responsibilities and duties with  
7 respect to those types of cases?

8 A. We develop informants, we follow leads from non-  
9 government organizations, State and local law enforcement,  
10 other federal agencies, labor trafficking, sex trafficking.

11 Q. You mentioned labor and sex trafficking. Are those your  
12 areas of expertise?

13 A. I mainly focus on sex trafficking.

14 Q. And, with respect to sex trafficking, have you focussed  
15 on any certain type of sex-trafficking operations during your  
16 time with HSI?

17 A. We work a lot of Asian massage parlors, and also outcall  
18 from Backpage previously, and Hispanic delivery services, and  
19 brothels.

20 Q. You mentioned outcalls from Backpage. What does that  
21 mean?

22 A. On Backpage, there is a section where you can go and  
23 browse for prosecution, and outcall means that you call the  
24 girl to you. In-call means you go to the girl.

25 Q. And you investigate cases involving Backpage?

1 A. We have previously when it's involved foreign nationals.

2 Q. Now, how many sex-trafficking cases would you say you've  
3 worked specifically in the Latino community?

4 A. Over 50, and that's a low number. As far as -- it's been  
5 a lot more than 50.

6 Q. And do you speak some Spanish, Special Agent Kelly?

7 A. Yes. I had to to acquire my job with the Border Patrol,  
8 and keep it.

9 Q. Aside from language barriers, are there any other  
10 obstacles to investigating cases in the Latino community sex-  
11 trafficking operations?

12 A. Undercover agents are limited that speak Spanish that are  
13 allowed into that community that will be serviced by those  
14 houses, distrust of law enforcement in general, cultural  
15 barriers.

16 Q. With respect to the victims and witnesses in these cases,  
17 what is their typical -- what do you see in terms of typically  
18 their Immigration status?

19 A. The majority of them are undocumented.

20 Q. I want to talk to you about your involvement in the  
21 particular case before the Court. Can you tell the ladies and  
22 gentlemen of the jury how and when you got involved with this  
23 case.

24 A. Detective Hartlove contacted me after he went out with  
25 the Prince George's County Police Department, because I had

1 worked a lot of Hispanic brothels with that department, so,  
2 when Detective Hartlove met Sergeant Norris of the Prince  
3 George's County Police Department, he gave him my contact  
4 information because I was familiar with the Latino brothels.

5 Q. Do you recall approximately when that was?

6 A. I would say probably about 2008. In the fall, winter of  
7 2008.

8 Q. And did you assist Detective Hartlove in his  
9 investigation?

10 A. Yes. Anything he asked that we could help with, we would  
11 do.

12 Q. And what did you do over the course of the investigation,  
13 if I can get a brief summary of your participation?

14 A. Some of our agents responded out to Annapolis to assist  
15 with interviews on occasion. When he would be at a brothel,  
16 he might contact me to ask me what types of questions to ask  
17 the girls to try and elicit a response, because many times you  
18 have a very brief opportunity with the females, and it's very  
19 difficult to have them self identify and bring complaints. So  
20 he would ask me how I should form the questions to identify  
21 indicators.

22 If we see indicators in the females, a lot of times  
23 we'll try and place them with non-governmental operations to  
24 give them a chance to feel safe and be able to better  
25 articulate what's happened to them.

1 Q. Did you also, in the course of your investigation,  
2 participate in the policing of consensual calls to known or  
3 suspected brothel numbers?

4 A. Yes.

5 Q. And did you also follow up and conduct and participate in  
6 searches of those brothels?

7 A. Yes.

8 Q. What is a consensual call?

9 A. Maryland's a two-party-consent state. As a federal  
10 agent, we can conduct one-party consensual phone calls. We  
11 get permission of our supervisors and also the U.S. Attorney's  
12 Office. We'll call for -- so we don't do it willy-nilly. It  
13 is controlled, and there is reports that are done, but we're  
14 able to do one-party consent as a federal agency, and that is  
15 to gather evidence of a crime, possibly provide protection for  
16 an undercover agent.

17 Q. I'd like to play a selection of some of the calls that  
18 you assisted in recording in this particular case.

19 **MS. YASSER:** And if I can ask the jury to please  
20 pass down the binders at the end of the jury box.

21 **MR. CUNNINGHAM:** Your Honor, do you want me to  
22 approach and assist, or --

23 **THE COURT:** Yes.

24 **MS. YASSER:** Your Honor, there is a copy of the  
25 binder on your bench as well.

1           **THE COURT:** Thank you.

2           **MS. YASSER:** And a copy has been provided to the  
3 interpreters as well. Oh, actually, you know what? It's in  
4 Spanish, so it's -- it's in Spanish.

5           **BY MS. YASSER:**

6           Q. Now, do you recall making, you know, quite a lot of  
7 consensual calls in this particular case, Special Agent Kelly?

8           A. Yes.

9           Q. And have you culled out, with the help of the Government,  
10 just a few of the calls that you made over the course of the  
11 investigation?

12          A. Yes.

13          Q. I want to start with some of the calls that were made in  
14 May of 2010 to a number ending in 9346. Do you recall why you  
15 called that particular number in May of 2010?

16          A. That was a number associated with a Latino brothel in  
17 Annapolis, Maryland.

18          Q. And do you recall the source of that -- was it a source  
19 information that gave that you lead?

20          A. Yeah. We were -- we would have received the number  
21 through our investigation, yes, ma'am.

22               **MS. YASSER:** I want to play -- and, for the ladies  
23 and gentlemen, this is Tab 1 in your binders. I'd like to  
24 play for the jury -- I believe, Mr. Cunningham, it's Track 1  
25 on the CD.

1 (Whereupon, an audio recording was played.)

2 **THE COURT:** What exhibit number was that, counsel?

3 **MS. YASSER:** Your Honor, this is --

4 **MR. CUNNINGHAM:** Should be right inside.

5 **MS. YASSER:** This is Government 40b/1A, Your Honor.

6 **THE COURT:** Thank you.

7 **MS. YASSER:** I'd like to play for the jury now

8 40b/1B, which is at Tab 2 in the binder.

9 **MR. RUTER:** May we approach, Your Honor, before  
10 that's played?

11 **THE COURT:** Come up.

12 (Whereupon, the following discussion occurred at the  
13 bench.)

14 **MR. RUTER:** Your Honor, we just received the folder  
15 with these calls, and the difficulty that I see is, after the  
16 call is ended, Special Agent Kelly may provide what would  
17 appear to me to be kind of his opinion. As an example, it  
18 talks about, on Line 4 -- he speaks into the -- his recorder,  
19 says target number for the Chino brothel. There is lots of  
20 evidence, Judge Quarles, about the brothels. We certainly  
21 know that. The problem is that I think the officer is  
22 editorializing. I do not know if he does it again, but I  
23 would have to object to any characterization as to what the  
24 number represents.

25 **THE COURT:** What page?

1                   **MR. RUTER:** Well, this would be Page 2, Your Honor,  
2                   of --

3                   **MR. MONTEMARANO:** Tab 1.

4                   **MR. RUTER:** Of Tab 1.

5                   **THE COURT:** Line 18?

6                   **MR. RUTER:** Line 18, yes, sir.

7                   **THE COURT:** Okay.

8                   **MS. YASSER:** Special Agent Kelly will testify later  
9                   on more in detail as to the connections between the numbers  
10                  that are involved in these consensuals so as to, I guess,  
11                  close the loop on that. It's going to obviously be his  
12                  opinion that, in the course of his investigation, that certain  
13                  brothels were associated with certain people, and we have a  
14                  whole chart all about that.

15                  **THE COURT:** Okay. My understanding is that you'll  
16                  connect it up later, so overruled.

17                  **MR. RUTER:** Okay. Thank you, Your Honor.

18                  (Whereupon, the bench conference was concluded.)

19                  **MS. YASSER:** If we could, Mr. Cunningham, play  
20                  Track 2 on the CD, please.

21                  (Whereupon, an audio recording was played.)

22                  **MS. YASSER:** And, for the record, Your Honor, that  
23                  was Government Exhibit 40a/1B.

24                  **THE COURT:** Thank you.

25                  **BY MS. YASSER:**

1 Q. Special Agent, there was some discussion of direction on  
2 that call. Do you have the transcript in front of you there?

3 A. No, I do not.

4 Q. Well, then let me read for you what the discussion was.  
5 There was some discussion about, "... from Jennifer's, to  
6 Oakland." Do you know what that refers to?

7 A. Jennifer Shop is one of the locations we did a lot of  
8 surveillance on during this investigation, and that was down  
9 the street from the [REDACTED] brothel, and Oaklawn I  
10 believe is the pronunciation of the avenue that parallels  
11 Forest Drive, and that's the intersection that was one of the  
12 photographs taken by Detective Hartlove and previously entered  
13 in as an exhibit.

14 Q. And interaction outside of which suspected brothel?

15 A. [REDACTED].

16 Q. Special Agent Kelly, did you know or recognize the  
17 voice --

18 **THE COURT:** Hold on for a moment. Translator?

19 **INTERPRETER BLUMBERG:** Hold on for a moment. We  
20 seem to have a technical difficulty.

21 **INTERPRETER GOLDSTEIN:** The equipment is working  
22 now, Your Honor.

23 **THE COURT:** Thank you.

24 **MS. YASSER:** Could I approach the witness with a  
25 copy of the binder?



1                   **THE COURT:** Yes.

2                   **BY MS. YASSER:**

3                   Q. Now, Special Agent Kelly, did you know or recognize a  
4                   voice of the person who picked up the phone at the 9346  
5                   number?

6                   A. No, I did not.

7                   Q. Was anyone of interest in the investigation arrested with  
8                   that phone number in the following month after these calls  
9                   were made?

10                  A. Two people were arrested with that phone number.

11                  Q. And who were those people?

12                  A. In June, it was Reyes, also known as Colmillo, and, on  
13                  November 15th, 2010, that phone was recovered at [REDACTED].

14                  Q. Now, with respect to Reyes, who you've referred to as  
15                  Colmillo, did you recover another number that was associated  
16                  with him sometime later on?

17                  A. On the June incident?

18                  Q. Later on in October -- on October 18th of 2010, do you  
19                  recall retrieving a piece of trash or receipt from Luis Reyes?

20                  A. Oh, yes. Another place we routinely did surveillance on  
21                  the investigation was the McDonald's in Riverdale, Maryland,  
22                  and we observed Reyes there in one of the vehicles. He took  
23                  trash from the vehicle and placed it in the receptacle, left  
24                  the area, and I was able to go over and retrieve that trash  
25                  without anyone else disturbing it, and there was a phone

1 receipt in there for -- I know the last four of the phone.

2 Q. What's the last four of the phone?

3 A. 5211.

4 Q. And I believe that that receipt has been previously  
5 admitted into evidence, but what did you do upon retrieving  
6 that number -- the 5211 number?

7 A. We placed consensual calls to it, ma'am.

8 Q. I want to play some of those consensual calls now. The  
9 first is the October 20th of 2010 call, and that looks like  
10 it's Tab Number --

11 **MS. YASSER:** Oh, I'm sorry. We have to have a disk  
12 change, but, for the ladies and gentlemen of the jury, that's  
13 Tab Number 6. And, Mr. Cunningham, it's W6400022, and this is  
14 Government's 40b/1E.

15 **MR. CUNNINGHAM:** I'm sorry. Can you repeat the  
16 track? WS --

17 (Counsel conferring.)

18 (Whereupon, an audio recording was played.)

19 **BY MS. YASSER:**

20 Q. I want to place or play another call, Your Honor, and  
21 this is Government's 40b/2A. It's Tab Number 7 for the ladies  
22 and gentlemen of the jury, and, for Mr. Cunningham, it's  
23 WS400029.

24 (Whereupon, an audio recording was played.)

25 **MS. YASSER:** I apologize, Your Honor. I gave the

1 wrong track to Mr. Cunningham. It's -- and tab number. It's  
2 Tab Number 9. This is a call from November 5th, 2010, and  
3 it's 40b/1F from the Government, and, for Mr. Cunningham, it's  
4 the track that ends in 39.

5 (Whereupon, an audio recording was played.)

6 **BY MS. YASSER:**

7 Q. Special Agent Kelly, there was a reference in that call  
8 to a [REDACTED]. Do you know to which street that refers?

9 A. Our investigation showed that routinely [REDACTED] was  
10 pronounced [REDACTED].

11 Q. Is that a replacement of the [REDACTED] with an [REDACTED]?

12 A. That's what it appears, yes.

13 Q. Is that common in speaking -- translation from Spanish to  
14 English?

15 A. Not that I'm aware of. It's just in this instance.

16 Q. Okay.

17 **MS. YASSER:** Now, I want to play one more call to  
18 this number, 5211, and that's a November 15th, 2010 call, and  
19 that's Government's 40b/1G, and the track ending in 535.

20 **THE COURT:** Exhibit number?

21 **MS. YASSER:** 40b/1G, and it's Tab Number 10.

22 **THE COURT:** Thank you.

23 (Whereupon, an audio recording was played.)

24 **MS. YASSER:** And that's the end of that call.

25 **BY MS. YASSER:**

1 Q. Now, with respect to November 15th, 2010, was a search  
2 performed at [REDACTED] on that date and time? On that  
3 date? I'm sorry.

4 A. Yes. On November 15th, 2010, we executed a search  
5 warrant.

6 Q. And we're going to go through a few of those items in a  
7 moment, but was that 5211 number that was used in the first  
8 call -- October 20th call, was that recovered?

9 A. No. That phone dropped off, and a new phone number  
10 became the number we were placing consensual phone calls to.

11 Q. Now, with respect to the November 5th call, which is Tab  
12 Number 9, the number that was called then was the 5211 number  
13 as well, and did that number come up --

14 (Whereupon, an audio recording was played.)

15 MR. CUNNINGHAM: Sorry.

16 **BY MS. YASSER:**

17 Q. -- that number come up over the course of your  
18 investigation in a different capacity?

19 (Whereupon, an audio recording was played.)

20 MR. CUNNINGHAM: Apologize, Your Honor.

21 THE WITNESS: That was the number that was  
22 associated with luring Hector Avila into the armed robbery.

23 **BY MS. YASSER:**

24 Q. And is that from your review of the toll records as well  
25 as testimony in this case?

1 A. Yes, and our investigation that evening with Mr. Avila.

2 Q. You mentioned that [REDACTED] was searched on  
3 November 15th, 2010. I want to go through with you some of  
4 the photographs that were taken on that day.

5 MS. YASSER: And this is Government's series 25,  
6 Your Honor.

7 Q. Do you recognize that picture --

8 A. Yes.

9 Q. -- in 25a/1?

10 A. That's the front door for [REDACTED].

11 Q. This is 25a/3. What's that?

12 A. That's the television on the table that's by the window  
13 where the SWAT Team deployed the distraction device.

14 Q. Why was there a distraction device deployed?

15 A. Because the investigation showed there was violence and  
16 weapons involved.

17 Q. This is Government's 25a/4.

18 A. That's Mr. Martinez.

19 Q. 25a/5.

20 A. That's one of the bedrooms.

21 Q. 25a/6?

22 A. That is Ms. Vargas to the left, and I don't remember his  
23 last name. I apologize. We called him Enrique, the guy on  
24 the right.

25 Q. 25a/7?

1 A. I think that's the same bedroom, just from another angle.

2 Q. And what did that location appear to you as, Special  
3 Agent Kelly?

4 A. A brothel.

5 Q. 25a/12?

6 A. I believe his last name is Reyes. He was driving the  
7 Toyota Corolla that day.

8 Q. 25a/3?

9 A. Omar Reyes Flores' identity documents and phone.

10 Q. Now, before the search of brothels and other locations on  
11 November 15th of 2010, this jury has previously heard about a  
12 search that was done at a location in Easton, Maryland. I  
13 want to review with you why that brothel was searched, and if  
14 you could please just explain to the ladies and gentlemen of  
15 the jury when and why that brothel was searched.

16 A. So, as part of the investigations, we were placing  
17 consensual phone calls. One of the things that's unique with  
18 the Latino or Hispanic brothels and delivery services as  
19 opposed to the Asian massage parlors we normally investigate  
20 is, on occasion, they'll receive and prostitute juveniles, so  
21 we use a wide range of resources to try and identify that.

22 One of those is consensual phone calls. Another  
23 thing, a source of information in the community, undercover  
24 agents, you know, and working with State and local. The thing  
25 that happened on July 6th that caused us to execute a search

1 warrant on July 7th was that, when we placed the consensually-  
2 monitored phone call, the individual advertised that the  
3 female was 17 years of age.

4 Q. I want to play for you some of those calls that led to  
5 that search warrant, starting with -- this is going to be  
6 Tab 3 of the binder, Government's 40b/1C, and Track 3 on that  
7 CD.

8 MS. YASSER: Actually, the first of those calls,  
9 Your Honor, because of the way they were recorded, was a call  
10 to [REDACTED].

11 (Whereupon, an audio recording was played.)

12 MR. RUTER: Same objection, Your Honor.

13 THE COURT: Overruled. Same ruling.

14 MS. YASSER: Your Honor --

15 THE COURT: You have a continuing objection.

16 MR. RUTER: Thank you, sir.

17 MS. YASSER: -- I'd now like to play Track 4, which  
18 is Tab 4 -- I'm sorry -- Track 5, which is now Tab 4 in the  
19 binder. It's the call from -- the follow-up call from  
20 July 6th, 2010.

21 MR. CUNNINGHAM: Track 4?

22 MS. YASSER: Track 5.

23 MR. CUNNINGHAM: Did you identify the exhibit?

24 MS. YASSER: Yes. It's 40b/1D.

25 (Whereupon, an audio recording was played.)

1 **BY MS. YASSER:**

2 Q. And these calls were placed to a number, Special  
3 Agent Kelly, that ends in 9186. How did you associate that  
4 number with the Easton brothel at the time?

5 A. That's my number that was placing the --

6 Q. Oh, I apologize. I'm sorry. 4630.

7 A. And we identified it through the investigation. I  
8 believe that was through the Easton Police Department. They  
9 were able to develop that from one of their sources of  
10 identification.

11 Q. And what was the address associated with that brothel?

12 A. [REDACTED].

13 Q. Were you present for the search of that location on July  
14 7th of 2010?

15 A. Yes, I was.

16 Q. I'd like to review some of those photographs with you  
17 now. This is Government's 17b/1, I believe. What is that?

18 A. That appears -- sorry. That appears to be the front door  
19 of [REDACTED].

20 Q. 17b/3?

21 A. Corner bedroom.

22 Q. 17b/4?

23 A. Another bedroom.

24 Q. 17b/5?

25 A. Mattresses. I'm not sure if they're in the same bedroom



1 or not.

2 Q. What was [REDACTED], Special Agent Kelly?

3 A. A second-floor apartment, ma'am, and it was being  
4 occupied as a Hispanic brothel.

5 Q. 17b/8?

6 A. Wallet with a business card.

7 Q. And was that the number that you called on the  
8 consensuals?

9 A. It's cut off, but, I mean, if you pulled it out, yeah, it  
10 would be 4630, yes, ma'am.

11 Q. 17b/9?

12 A. Playing cards.

13 Q. 17b/12?

14 A. There is tampons, loose currency, and playing cards. In  
15 my investigations, we've seen where not all the women, but  
16 some of the women worked through their menstrual cycle, and  
17 they'll use the tampons to allow them to work if they're  
18 available or if they're forced to use it.

19 Q. 17b/14?

20 A. Tally sheet. It's a -- in English, so the days of the  
21 week.

22 Q. Do you know the name of the woman that was recovered at  
23 [REDACTED]?

24 A. One of the names she provided us was Wendy.

25 Q. Government's 7 -- oh, I'm sorry. 17b/3 -- b/13?

1 A. A machete. It's fancier than normal because of the  
2 holder and the cut.

3 Q. Now, you mentioned this was a second-floor apartment; was  
4 that right?

5 A. Yes, ma'am.

6 Q. And was there an attic or a crawl space associated with  
7 that apartment?

8 A. Yes. You could access it through the bathroom.

9 Q. And did you access that -- was it a crawl space, or an  
10 attic, by the way?

11 A. You could stand and walk in it. It was not conditioned  
12 space, but there were floorboards, so you could use it for  
13 storage, but it was not conditioned space as part of the  
14 interior.

15 Q. And did you search it?

16 A. I did.

17 Q. This is 17b/16. What is that?

18 A. That's the space that I searched.

19 Q. And did you lift up those floorboards?

20 A. I did.

21 Q. And this is 17b/17. Special Agent Kelly, what did you  
22 find when you lifted up those floorboards?

23 A. We found a variety of objects hidden in the rafters.  
24 There were business cards. There was a small Santa Muerte.  
25 There was an empty box of condoms. There were condoms. There

1 was lubricant, K-Y Jelly for sexual purposes. There were  
2 dirty towels. It was unusual in the fact that normally in  
3 the -- like Langley Park, where there is a lot of brothels,  
4 they'll use the dumpsters so you can't do a traditional trash  
5 rip to see what's going on in the house as an investigative  
6 technique, but, here, a lot of their trash was in there, so we  
7 could see -- we could get a better picture of what was  
8 actually happening.

9 Q. I believe most of that evidence has already been put in,  
10 so I'm going to continue with just the pictures, and this is  
11 17b/8. What is that?

12 A. That's what I take to be a Santa Muerte --

13 Q. b/18.

14 A. Pardon.

15 Q. Sorry. 17b --

16 A. It appears to be a Santa --

17 **MS. YASSER:** Excuse me. 17b/18 for the record.

18 Q. What is that?

19 A. That's what I take to be a Santa Muerte statue.

20 Q. And where was that recovered?

21 A. In that space.

22 Q. 17b/19?

23 A. Box of Lifestyle condoms. Some were full. Some were  
24 empty.

25 Q. 17b/21?

1 A. The trash.

2 Q. And 17b/22?

3 A. The rubbing alcohol and more condoms, looks like wipes,  
4 and the K-Y Jelly.

5 Q. Finally, 17b/23?

6 A. More trash, and it just shows you the filth.

7 Q. The same day that the [REDACTED] location was  
8 searched back in November of 2010, were other locations and  
9 vehicles also searched?

10 A. Yes, there were.

11 Q. I think the jury has already heard from  
12 Detective Hartlove on most of those locations. We just need  
13 to go through with you very briefly the vehicles that were  
14 also searched on that day. Starting with the Ford Explorer --  
15 and this is Government's series 21. Do you recall where that  
16 Ford Explorer was when it was searched?

17 A. The Explorer would have been at [REDACTED].

18 Q. And whose residence is that?

19 A. Mr. Ventura's.

20 Q. 21a?

21 A. Maryland license plate displaying 57157, Mike, 5.

22 Q. Is that a license plate relevant to the surveillance  
23 conducted in this case?

24 A. Yes, it is.

25 Q. 21b?

1 A. Tally sheets.

2 Q. 21e?

3 A. Cellular phone.

4 Q. 21c?

5 A. It looks like a receipt for Ashland, Virginia.

6 Q. And 21d?

7 A. It looks like a money remitter receipt from Jose Antonio  
8 Reyes to Lucia Reyes Escobar in El Salvador.

9 Q. I want to move on to the next vehicle that was searched  
10 on November 15th of 2010, and that was a Ford Expedition. Do  
11 you recall where that vehicle was on November 15th?

12 A. As I recall, that vehicle had left the residence with  
13 Yenis Ruiz operating it to pick up a child, and then  
14 subsequently came back when the -- once again, we had our  
15 Special Response Team execute the warrant at [REDACTED],  
16 and they found an unaccompanied minor in the house.

17 Q. Now, there is only one item of evidentiary value that was  
18 seized from the Ford Expedition. I'm going to place it on the  
19 screen for you. It's Government's 22a. What is that?

20 A. A tally sheet.

21 Q. There was also a Nissan Sentra that was searched on  
22 November 15th, 2010, or, actually, it was searched sometime  
23 thereafter. Can you explain why that was?

24 A. It was -- so we had a number of search warrants to  
25 execute, and we had ten days to execute them, and we couldn't

1 find the vehicle, so we found it on November 22nd. Through  
2 Detective Hartlove, it had been impounded in Annapolis.

3 Q. And was that vehicle searched at the time --

4 A. Once we --

5 Q. -- it was found?

6 A. Once we found the location, we found the vehicle. We  
7 went and we searched the vehicle pursuant to the search  
8 warrant, yes.

9 Q. Do you recall when that was?

10 A. Should have been November 22nd.

11 Q. And were items of evidentiary value seized from that  
12 Nissan Sentra?

13 A. Yes, they were.

14 Q. This is 23a.

15 A. It's a playing card with a hole punch.

16 Q. 23b?

17 A. Boxes of business cards.

18 **MS. YASSER:** I'm removing and publishing to the  
19 jury, Your Honor, one of the business cards seized from that  
20 box.

21 Q. 23c?

22 A. We know those to be homemade business cards for  
23 advertising prostitution. They were identified through the  
24 investigation.

25 Q. And then, finally, 23d?

1 A. Maryland registration for Jose Antoni Lopez, [REDACTED]  
2 [REDACTED], Silver Spring.  
3 Q. Is there also a Toyota Corolla that was searched on that  
4 same day?  
5 A. Yes. That would have been closer to [REDACTED].  
6 Q. And do you know who was operating that Toyota Corolla on  
7 that day?  
8 A. The individual identified previously as Omar Reyes.  
9 Q. And 24a, is that a document that was seized from the  
10 vehicle?  
11 A. Yes, it was.  
12 Q. 24b?  
13 A. Business cards that we identified through the  
14 investigation as being involved in advertising Hispanic  
15 prostitution.  
16 Q. What appears to be another business card. Is that number  
17 recognizable to you?  
18 A. I'd have to check my chart, if I can real quick?  
19 Q. Yeah, if could you. It ends in 8938.  
20 (Witness reviewing document.)  
21 A. I've listed that number as associated [REDACTED],  
22 and we recovered that number previously on September 26th,  
23 2008.  
24 Q. Was Defendant Ventura arrested on November 15th, 2010 as  
25 well?

1 A. Yes, he was.

2 Q. I think some of the items previously seized from him have  
3 been admitted, and I want to show you Government's 20b/1. Do  
4 you recognize that?

5 A. Yes, I do.

6 Q. What is that?

7 A. That's a -- what we've identified as a Santa Muerte  
8 prayer that was on his person.

9 Q. And did you obtain a translation of the Santa Muerte  
10 prayer?

11 A. I did.

12 Q. This is Government's 20b/2, and that will be admitted  
13 into evidence.

14 Now, when Mr. Ventura was arrested on November 15th  
15 of 2010, he was transporting someone; is that correct?

16 A. Yes, he was.

17 Q. I'm going to show you what's been marked as  
18 Government's 20q. Who is that?

19 A. Bonita Torres Moran, I believe is the correct  
20 pronunciation of her name.

21 Q. And this was a item seized from Ms. Moran; is that  
22 correct?

23 A. Yes, ma'am.

24 Q. And what does that show?

25 A. It's a Greyhound ticket showing she traveled from New



1 York, New York to Washington, D.C.

2 Q. And was that the same day that she was arrested with  
3 Mr. Ventura?

4 A. Yes, ma'am. It shows an arrival time of November 15th,  
5 2010, at 11:20 a.m.

6 Q. This is Government's 20g. Was that also seized from  
7 Mr. Ventura?

8 A. It was, ma'am.

9 Q. And there is a name Joong Kim at the bottom. Do you know  
10 that person?

11 A. Yes, ma'am.

12 Q. Who is it?

13 A. He's the same Mr. Kim that testified here for this trial.

14 Q. The owner of [REDACTED]?

15 A. Yes, ma'am.

16 Q. Have you had occasion to review Mr. Ventura's prior  
17 arrest history in the two years leading up to his arrest in  
18 this case from 2008 to 2010?

19 A. Yes, ma'am.

20 Q. Without going into why he was arrested, has Mr. Ventura  
21 been arrested before?

22 A. Yes, ma'am.

23 Q. And how many times?

24 A. I can safely say, the one time, he was taken into full-  
25 custody arrest. The other time, I'm not sure if it was full

1 custody or not, so I would say one full-custody arrest.

2 Q. And how long was Mr. Ventura approximately detained on  
3 that arrest date?

4 A. A brief period of time. The exact -- the amount of  
5 hours, I'm not certain.

6 Q. I want to go back quickly to Ms. Bonita Moran, I think  
7 you called her? Moran?

8 A. Bonita Torres Moran.

9 Q. That was the woman who was arrested with Mr. Ventura on  
10 November 15th. Did you have occasion -- was she also -- was a  
11 cell phone seized from her person on that day?

12 A. I'm not sure if it was her person or her bag, but it was  
13 identified to be associated with her, yes, ma'am.

14 Q. And I'm going to put on the screen for you what's been  
15 marked as 40d/3. What is this?

16 A. That appears to be a toll report that we ran pursuant to  
17 the evidence gathered for this investigation that shows  
18 contact between her phone number, [REDACTED] -- Ms. Moran's phone  
19 number, [REDACTED]-8075, and the phone number [REDACTED]-3124 that  
20 we associated with Mr. Ventura.

21 Q. And was that number -- that 3124 number actually seized  
22 from Mr. Ventura on that day?

23 A. A phone with that number was seized in the Astrovan that  
24 day, yes, ma'am.

25 Q. And does this toll record show contacts between

1 Mr. Ventura's 3124 number and Ms. Moran's 8075 number on that  
2 day?

3 A. Yes, ma'am, incoming and outgoing.

4 Q. You also heard testimony in the course of this trial  
5 about surveillance that was conducted on August 2nd of 2010.  
6 Do you recall that testimony?

7 A. Yes, ma'am.

8 Q. And can you review for the ladies -- and did you  
9 participate in that surveillance on that day, Special  
10 Agent Kelly?

11 A. Yes, I did, ma'am.

12 Q. What did you do?

13 A. I ended up doing surveillance at [REDACTED] in the  
14 afternoon, ma'am.

15 Q. And could you just briefly summarize what the  
16 surveillance on that day revealed.

17 A. Mr. Ventura moving a female from [REDACTED] to  
18 another location in Prince George's County, returning back to  
19 the residence at [REDACTED], meeting another female there  
20 that had driven a vehicle there with Florida tags on it. She  
21 entered into his silver Expedition with him as the operator.  
22 They returned to [REDACTED] for a short time, and then  
23 drove down to Portsmouth, Virginia.

24 Q. And did you coordinate with people in Portsmouth,  
25 Virginia, to pick up surveillance at that time?

1 A. I did. I coordinated with a local HSI office in  
2 Portsmouth, Virginia.

3 Q. And what did they observe?

4 A. They observed Mr. Ventura's vehicle arrive at [REDACTED],  
5 Portsmouth, Virginia. They observed a Hispanic male and a  
6 Hispanic female in the same manner of dress and physical  
7 description exit the vehicle at the rear of the house.

8 Q. And, when you say the same manner and physical dress, did  
9 you provide the manner and physical dress to them over the  
10 phone?

11 A. Yes, ma'am.

12 Q. Okay. I want to show you what's been previously admitted  
13 as Government's 28e/2. Is that a surveillance image from  
14 earlier that morning?

15 A. Yes, ma'am.

16 Q. Do you know approximately what time?

17 A. Approximately 10:00 a.m.

18 Q. And Government's 28e/6?

19 A. And that would be later on where -- that's the female  
20 that arrived in the Toyota with the Florida tags.

21 Q. And, by the way, what day of the week is August 2nd?

22 A. Monday, ma'am.

23 Q. 28e/7?

24 A. [REDACTED], same vehicles, same participants.

25 Q. Now, at the time that this surveillance was conducted,

1 was there also realtime GPS tracking up on Mr. Ventura's  
2 phone?

3 A. Yes.

4 Q. And what phone number was that?

5 A. The [REDACTED]-3124.

6 Q. And did you review the information that was acquired from  
7 that phone in preparation for your testimony today?

8 A. I did.

9 Q. And did you create a map of that activity on the phone in  
10 the hours preceding and following the activities on the --  
11 during the surveillance?

12 A. Yes, with the help of our analyst.

13 Q. And what did it show generally? What does your analysis  
14 show?

15 A. On August 1st, 2010 -- on August 1st -- I'm sorry. I  
16 hear double language. I'm sorry.

17 So, on August 1st, 2010, 3124 was in Maryland, and  
18 it traveled from Maryland to Portsmouth, Virginia in the early  
19 hours of August 2nd, 2010, and then it returned from  
20 Virginia -- from Portsmouth, Virginia, back to Maryland, and  
21 subsequently it returned from Maryland to Portsmouth,  
22 Virginia.

23 **THE COURT:** Thank you, Ms. Yasser.

24 Members of the jury, we've reached the end of the  
25 trial day. Tomorrow, we're going to get a little later start.

1 The Court has other business, so we will be starting at  
2 11:00 a.m. Please be in your jury room at about five minutes  
3 before 11:00 so that we can get started at 11:00. Please  
4 remember: Don't discuss the case among yourselves or with  
5 anyone else. We'll see you tomorrow morning at 11:00 a.m.

6 (Jury excused.)

7 (Witness excused pending further examination.)

8 **THE COURT:** Counsel, we'll have drafts of the  
9 instructions and verdict sheets for you for your review, and  
10 see you tomorrow at 11:00. Good night.

11 **MR. RUTER:** Thank you, Your Honor.

12 **THE CLERK:** All rise. This Honorable Court stands  
13 adjourned until tomorrow morning.

14 (Proceedings adjourned.)

15  
16  
17 I, Martin J. Giordano, Registered Merit Reporter and Certified  
18 Realtime Reporter, certify that the foregoing is a correct  
19 transcript from the record of proceedings in the  
20 above-entitled matter.

21  
22 \_\_\_\_\_  
23 Martin J. Giordano, RMR, CRR

24 \_\_\_\_\_  
25 Date

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